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MONTANA LEGISLATIVE HISTORY

Chapter 770 19 91

Bill H _____ S 189 Original bill & history ✓ C

H. Committee on Natural Resources			S. Committee on Local Government		
Hearing Date(s)	Mar 19	✓ C	Hearing Date(s)	Feb 07	✓ C
	Apr 02	✓ C		Feb 16	✓ C
		C			C
		C			C
Date Out	Apr 02	✓ C		Feb 16	✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

Note: A Free Conference Committee was appointed, but its minutes were not recorded.

3/23	2ND READING AMENDMENTS CONCURRED	47	0
3/25	3RD READING AMENDMENTS CONCURRED	47	0
3/28	SIGNED BY PRESIDENT		
4/02	SIGNED BY SPEAKER		
4/02	TRANSMITTED TO GOVERNOR		
4/05	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 362	EFFECTIVE DATE: 10/01/91	

SB 189 INTRODUCED BY T. BECK, ET AL.

GENERAL REVISION OF LOCAL GOVERNMENT SOLID WASTE MANAGEMENT LAWS

BY REQUEST OF ENVIRONMENTAL QUALITY COUNCIL

1/22	INTRODUCED		
1/23	REFERRED TO LOCAL GOVERNMENT		
1/23	FIRST READING		
1/23	FISCAL NOTE REQUESTED		
1/29	FISCAL NOTE RECEIVED		
1/29	FISCAL NOTE PRINTED		
2/07	HEARING		
2/16	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/18	2ND READING PASSED AS AMENDED	46	2
2/19	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO NATURAL RESOURCES		
3/19	HEARING		
4/03	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/05	2ND READING CONCURRED	86	7
4/06	3RD READING CONCURRED	82	12
	RETURNED TO SENATE WITH AMENDMENTS		
4/09	2ND READING AMENDMENTS NOT CONCURRED	45	0
4/16	CONFERENCE COMMITTEE APPOINTED		
4/19	CONFERENCE COMMITTEE DISSOLVED		
4/19	FREE CONFERENCE COMMITTEE APPOINTED		
4/24	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/24	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
4/24	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	45	4
	HOUSE		
4/18	CONFERENCE COMMITTEE APPOINTED		
4/19	FREE CONFERENCE COMMITTEE APPOINTED		
4/24	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/24	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	86	14
4/25	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	88	11
4/30	SIGNED BY PRESIDENT		
5/03	SIGNED BY SPEAKER		
5/03	TRANSMITTED TO GOVERNOR		
5/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 770	EFFECTIVE DATE: 7/01/91	

SB 190 INTRODUCED BY WEEDING, ET AL.

REVISE METHOD OF ENFORCEMENT AND PENALTIES FOR UNFAIR TRADE PRACTICES

1/22	INTRODUCED		
1/23	REFERRED TO JUDICIARY		
1/23	FIRST READING		
1/23	FISCAL NOTE REQUESTED		
1/29	FISCAL NOTE RECEIVED		
1/29	FISCAL NOTE PRINTED		

HOUSE STANDING COMMITTEE REPORT

April 2, 1991

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 189 (third reading copy -- blue) be concurred in as amended.

Signed: Bob Raney
Bob Raney, Chairman

Carried by: Rep. Gilbert

And, that such amendments read:

1. Title, line 10.
Following: "7-7-4402,"
Insert: "7-7-4426,"
Following: "7-13-215,"
Insert: "7-13-231,"

2. Title, line 11.
Following: "SECTIONS"
Insert: "7-13-211,"

3. Page 7, line 6.
page 8, line 4
Strike: "15"
Insert: "21"

4. Page 8, line 7.
Strike: "be insufficient"
Insert: "have no factual or legal basis"

5. Page 12.
Following: line 16
Insert: "(2) The commissioners may issue a revenue bond only if the sale of the bond has been approved in a general or special election by a majority of the registered voters in the jurisdictions to be directly served by the solid waste district."
Renumber: subsequent subsections

6. Page 16.
Following: line 13
Insert: "(2) A joint district may issue a revenue bond only if the sale of the bond has been approved in a general or special election by a majority of the registered voters in the jurisdictions to be directly served by the joint district."
Renumber: subsequent subsections

7. Page 16, line 15.
Strike: "without an election and"

8. Page 19.
Following: line 4
Insert:
"Section 29. Section 7-7-4426, MCA, is amended to read:
"7-7-4426. Authorization for undertaking and issuance of bonds. (1) The acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of any undertaking may be authorized under this part.
(2) Bonds may be authorized to be issued under this part by resolution or resolutions of the governing body of the municipality:
(a) without an election, except joint solid waste district and county solid waste bonds; or
(b) when authorized by a majority of the qualified electors voting upon such question at a special election, should the governing body in its sole discretion choose to submit the question to the electorate."

Section 30. Section 7-13-231, MCA, is amended to read:
"7-13-231. Authorization for charges for services. (1) To defray the cost of maintenance and operation of said refuse disposal district, the board shall establish a fee for service, with approval of the county commissioners, provided a public hearing has been held if written protest has been made ~~as provided in 7-13-211~~. An increase in fees may not be approved and implemented unless notice of such increase is given as provided in 7-13-208(1) and (2) and opportunity for protest is allowed as provided in 7-13-209 ~~and 7-13-211~~.
(2) This fee shall be assessed to all units in the district that are receiving a service, for the purpose of maintenance and operation of said district.""
Renumber: subsequent sections

9. Page 19, line 5.
Following: "Sections"
Insert: "7-13-211"

10. Page 19.
Following: line 21
Insert:
"NEW SECTION. Section 34. Coordination instruction. If House Bill No. 296 is passed and approved and if it includes a

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section that amends 7-5-2306, then [section 1 of this act], amending 7-5-2306, is void."
Renumber: subsequent sections

SENATE BILL NO. 189

INTRODUCED BY T. BECK, HARP, YELLOWTAIL,

WEEDING, GAGE, REA, GRADY, RANEY

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO SOLID WASTE MANAGEMENT BY LOCAL GOVERNMENTS; AUTHORIZING MULTICOUNTY SOLID WASTE DISTRICTS; AMENDING SECTIONS 7-5-2306, 7-5-4304, 7-5-4321, 7-7-2501, 7-7-4402, 7-7-4426, 7-13-202, 7-13-204, 7-13-209, 7-13-212, 7-13-215, 7-13-231, 7-13-232, 7-13-233, AND 7-13-235, MCA; REPEALING SECTIONS 7-13-211, 7-13-241, 7-13-242, 7-13-243, 7-13-2401, 7-13-2402, 7-13-2403, 7-13-2404, 7-13-2405, AND 7-13-2406, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-5-2306, MCA, is amended to read:

"**7-5-2306. Use of installment purchase contracts.** When the amount to be paid as the purchase price for any vehicle or road machinery of any kind, for any other machinery, apparatus, appliance, or equipment, or for any materials or supplies of any kind shall exceed $4,000, the county governing body may provide for the payment of such purchase price in installments extending over a period of not more than 5 years, except contracts for solid waste management systems as defined by 75-10-103, which may not exceed 10 years, provided that at the time of entering into the agreement for such purchase, there shall be an unexpended balance of appropriation in the budget for the then-current fiscal year available and sufficient to meet and take care of such portion of the purchase price as is payable during the then-current fiscal year and the budget for each following year in which any portion of such purchase price is to be paid shall contain an appropriation for the purpose of paying the same."

Section 2. Section 7-5-4304, MCA, is amended to read:

"**7-5-4304. Certain contracts to be submitted to voters.** No contract may be let pursuant to 7-5-4302 that extends over a period of 5 years or more, except contracts for solid waste management systems as defined in 75-10-103, which may not exceed 10 years, without first submitting the question to a vote of the electors of the city or town."

Section 3. Section 7-5-4321, MCA, is amended to read:

"**7-5-4321. Grant of exclusive franchise -- election required.** (1) The council may not grant an exclusive franchise or special privilege to any person except in the manner specified in subsection (2). The powers of the council are only those expressly prescribed by law and those necessarily incident thereto.

(2) No exclusive franchise for any purpose, except

contracts for solid waste management systems as defined in 75-10-103, which may not exceed 10 years, may be granted by any city or town or by the mayor or city council thereof to any person, association, or corporation without first submitting the application therefor to the electors of the city."

Section 4. Section 7-7-2501, MCA, is amended to read:

"7-7-2501. Authority to issue revenue bonds -- refunding revenue bonds. (1) A county may issue county revenue bonds in the same manner and with the same effect as provided in chapter 7, part 44, of this title for issuance of municipal revenue bonds. County revenue bonds may be issued to finance any project or activity enumerated in chapter 16, part 21, or chapter 34, part 22 or 23, of this title or in Title 75, chapter 10, part 1. Revenues from the project for which the bonds are issued are the only revenues upon which a lien under the provisions of 7-7-4431 shall apply. No lien shall attach to other revenues or other property within the county.

(2) A county may refund revenue bonds issued under the authority provided in subsection (1) by the method provided in either part 45 or part 46 of chapter 7.

(3) In construing, for purposes of this section, the provisions of parts 44, 45, or 46 of chapter 7, "municipal" is considered to refer to the county and "governing body" is

considered to refer to the board of county commissioners whenever the board of county commissioners is acting pursuant to subsection (1)."

Section 5. Section 7-7-4402, MCA, is amended to read:

"7-7-4402. Definitions. Whenever used in this part, unless a different meaning clearly appears from the context, the following definitions apply:

(1) The term "governing body" shall include bodies and boards, by whatsoever names they may be known, having charge of finances and management of a municipality.

(2) The term "municipality" shall include any city or any town, however organized.

(3) The term "undertaking" shall mean any one or a combination of the following:

(a) water and sewer systems, together with all parts thereof and appurtenances thereto including but not limited to supply and distribution systems, reservoirs, dams, and sewage treatment and disposal works;

(b) public airport construction and public airport building;

(c) convention facilities;

(d) public recreation facilities; and

(e) public parking facilities, solid waste management systems, or other revenue-producing facilities and services authorized in these codes for cities and towns."

Section 6. Section 7-13-202, MCA, is amended to read:

"7-13-202. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Board" means the board of directors as provided for in 7-13-213 ~~and 7-13-241~~.

(2) "Commissioners" means the board of county commissioners.

(3) "Family residential unit" means the residence of a single family.

~~(4) "Refuse" means all putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, street cleanings, dead animals, yard clippings, and solid market and solid industrial wastes.~~ "Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage; rubbish; refuse; ~~hazardous wastes;~~ ashes; sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; ~~septic tank and cesspool pumpings;~~ construction and demolition wastes; dead animals, including offal; discarded home and industrial appliances; and wood ~~wastes~~ PRODUCTS OR WOOD BYPRODUCTS and inert materials. ~~The term~~ "SOLID WASTE" does not ~~include~~ MEAN municipal sewage, industrial wastewater effluents, or mining wastes regulated under the mining and reclamation laws administered by the

department of state lands, SLASH AND FOREST DEBRIS REGULATED UNDER LAWS ADMINISTERED BY THE DEPARTMENT OF STATE LANDS, OR MARKETABLE BYPRODUCTS.

~~(5) "Refuse disposal district" means an area established with definite boundaries for the purpose of collecting and disposing of all refuse created in said district.~~ "Solid waste MANAGEMENT district" means an area established within a county for the purpose of ~~collecting and disposing of all solid waste created in the district~~ PLANNING AND OPERATING A SOLID WASTE MANAGEMENT SYSTEM AS DEFINED IN 75-10-103."

Section 7. Section 7-13-204, MCA, is amended to read:

"7-13-204. Resolution of intention to create ~~refuse disposal~~ solid waste management district. (1) Before creating ~~any refuse disposal~~ a solid waste management district, the commissioners shall pass a resolution of intention to do so.

(2) The resolution shall designate:

(a) the proposed name of such district;

(b) the necessity for the proposed district;

(c) a general description of the territory or lands of said district, giving the boundaries thereof;

(d) the general character of the collection service;

(e) the proposed fees to be charged for the service; and

(f) the powers to be delegated to the board and the powers to be exercised only with the approval of the county commissioners."

Section 8. Section 7-13-209, MCA, is amended to read:

"**7-13-209. Right to protest.** (1) At any time within ~~30~~ ~~15~~ 21 days after the date of the first publication of the notice provided for in 7-13-208, any owner of property liable to be assessed for said service may make written protest against the proposed service or against the fees proposed to be charged for the service.

(2) Such protest must be in writing and be delivered to the county clerk, who shall endorse thereon the date of the receipt by him."

Section 9. Section 7-13-212, MCA, is amended to read:

"**7-13-212. Resolution creating district -- power to order improvements.** (1) Before ordering any of the proposed improvements, the commissioners shall pass a resolution creating the ~~refuse-disposal~~ SOLID WASTE MANAGEMENT district in accordance with the resolution of intention theretofore introduced and passed by the commissioners.

(2) The commissioners may change the boundaries and description of the district from the resolution of intention if the changes do not add territory or increase the proposed fees.

~~(2)~~(3) The commissioners shall be deemed to have

acquired jurisdiction to order improvements immediately upon the occurrence of one of the following:

(a) when no protests have been delivered to the county clerk within ~~30~~ ~~15~~ 21 days after the date of the first publication of the notice provided for in 7-13-208;

(b) when a protest shall have been found by said commissioners to ~~be--insufficient~~ HAVE NO FACTUAL OR LEGAL BASIS; or

(c) when a protest shall have been overruled."

Section 10. Section 7-13-215, MCA, is amended to read:

"**7-13-215. Powers and duties of board.** ~~The--board--of--a refuse--disposal--district--established--and-organized-under this-part-has-the-following--powers--and--duties,--with--the approval---of--the--county--commissioners--of--the--counties involved:~~

~~(1)--to--develop--and--administer--a--program--for---the collection-or-disposal-of-refuse-in-the-district;~~

~~(2)--to-employ-personnel;~~

~~(3)--to--purchase,--rent,--or-execute-leasing-agreements for-such-equipment-and-material-necessary-for-carrying-on-an effective-refuse-collection-or-disposal-program;~~

~~(4)--to-cooperate--with--any--corporation,--association, individual,-or-group-of-individuals,-including-any-agency-of the--federal,--state,-or-local-government,-in-order-to-carry out-effective-programs;~~

~~(5)--to-receive-gifts,--grants,--or--donations--for--the purpose--of--advancing--the--program-and-to-acquire-by-gift, deed,-purchase,-or-condemnation-land--necessary--for--refuse disposal-purposes;~~

~~(6)--to--enforce--department-of-health-and-environmental sciences-or-local-board-of-health-rules--pertaining--to--the storage,-collection,-and-disposal-of-refuse;~~

~~(7)--to---apply---for---and--receive--from--the--federal government-or-the-state-government,-on-behalf-of-the--refuse disposal--district,--money--appropriated-by-federal-or-state legislative-bodies-for-aiding-these-programs;~~

~~(8)--to-borrow-from-any-loaning-agency--funds--available for--assistance--in--planning-or-financing-a-refuse-disposal district-and-repay-these-with-the-money--received--from--the fees--levied-under-this-part.~~ Except for powers specifically reserved by the counties in the resolution creating the district, the board has the powers and duties provided in 75-10-112."

Section 11. Section 7-13-232, MCA, is amended to read:

"7-13-232. Determination of service charge. ~~(1)--The fees-shall-be-based-upon-a-family-residential-unit,-and-fees for-commercial-and-industrial-accounts-shall-be-based-on-the comparison--with-a-typical-residential-unit-as-to-volume-and type-of-waste-produced.~~ (1) The board may establish, by resolution, rates for service charges. For solid waste

MANAGEMENT districts other than joint districts, the rates must be subject to the approval of the county commissioners.

(2) Service charges may take into account:

(a) the character, kind, and quality of service; and

(b) the cost of providing the service, including but not limited to depreciation and the payment of principal and interest on money borrowed by the district for the acquisition and improvement of facilities and equipment.

(3) Service charges may be assessed per family residential unit or based on the size of a vehicle used to dispose of the waste; the volume or weight of the waste; or the cost, incentives, or penalties applicable to waste management practices.

(4) The initial rate for any solid waste district or joint solid waste MANAGEMENT district may not exceed the rate provided in the resolution creating the district.

~~(2)~~(5) Fees for mobile home park accounts must be paid by the registered owner of each mobile home in the mobile home park.

~~(3)--In--no--case--shall--the--fee--for-disposal-service exceed-one-half--the--total--fee--for--both--collection--and disposal-services;~~

(6) A notice of intention to enact a resolution to increase rates must be published as provided in 7-1-4128, and the district shall hold a public hearing prior to the

meeting at which the resolution is considered."

Section 12. Section 7-13-233, MCA, is amended to read:

"7-13-233. Procedure to collect service charge. ~~The month--the--service-begins, the-department-of-revenue-or-its agents-shall-insure-that-the-amount-of-this-fee-is-placed-on the-tax-notices, to-be-collected-with-the-tax. If-a-property owner-fails-to-pay-this-fee, it-shall-become-a-lien-upon-the property.~~ (1) The service charge may be imposed for:

(a) any fiscal year for which the district establishes a budget or incurs costs related to planning or constructing a solid waste management facility; or

(b) services to begin within 12 months.

(2) The board shall certify to the county commissioners of the county served by the solid waste MANAGEMENT district the service charge needed for the current fiscal year, the due but unpaid service charges, and a description of the property against which the service charges are to be levied.

(3) The department of revenue or its agent shall ensure that the amount of the service charge is placed on property tax notices and that the service charge is collected with property taxes.

(4) The board may establish a system for collecting service charges other than by tax notices to property owners issued by the department of revenue. The board may collect the service charge more often than property taxes are

collected.

(5) If not paid, the service charge becomes delinquent and becomes a lien on the property, subject to the same penalties and the same rate of interest as property taxes."

Section 13. Section 7-13-235, MCA, is amended to read:

"7-13-235. Installment payments for capital improvements. To defray the initial cost of purchasing land and equipment, payments may be spread over a term of not to exceed ~~20~~ 10 years. ~~Payments--are--to--be--made-in-equal installments-out-of-the-money-received--from--the--fee--levy provided-for-in-this-part.~~"

NEW SECTION. **Section 14.** Bonds and obligations. (1) The commissioners may issue revenue bonds, including refunding bonds, or borrow money for the acquisition of property, construction of improvements, or purchase of equipment or to pay costs related to planning, designing, and financing a solid waste management system.

(2) THE COMMISSIONERS MAY ISSUE A REVENUE BOND ONLY IF THE SALE OF THE BOND HAS BEEN APPROVED IN A GENERAL OR SPECIAL ELECTION BY A MAJORITY OF THE REGISTERED VOTERS IN THE JURISDICTIONS TO BE DIRECTLY SERVED BY THE SOLID WASTE DISTRICT.

~~(2)~~(3) Revenue bonds may be issued in a form and upon terms as provided in 7-7-2501.

~~(3)~~(4) Bonds or loans may be payable from any revenue

of the joint solid waste MANAGEMENT district, including revenue from:

(a) service charges authorized in 7-13-233;

(b) taxes levied pursuant to [section 16];

(c) grants or contributions from the state or federal government; or

(d) other sources.

NEW SECTION. **Section 15. Board to certify deficiency.** The board shall certify annually to the commissioners the amount of principal and interest payable for the next fiscal year. The board shall certify to the counties the amount of any deficiency that may exist for the ensuing period of 1 year for the payment of principal and interest due on any outstanding bonds for which the district's revenues are pledged.

NEW SECTION. **Section 16. County tax levy.** The commissioners may levy a tax on all property in the solid waste MANAGEMENT district for the purpose of paying a deficiency certified by the board. The commissioners may levy a tax not to exceed 2 mills if a deficiency is certified by the board.

NEW SECTION. **Section 17. Purpose.** To provide safe, efficient, and effective management of solid waste, two or more counties are authorized to cooperate in the creation of a joint solid waste district. A joint solid waste district

is a political subdivision of the state for the purposes of the municipal finance consolidation act as provided in 17-5-1602 and for solid waste management services as provided in 75-10-112.

NEW SECTION. **Section 18. Definitions.** As used in [sections 18 through 28], the following definitions apply:

(1) "Joint district" means a joint solid waste district created through the procedures outlined in [sections 18 through 28].

(2) "Board" means the board of directors as provided in [section 21].

(3) "Counties" means the commissioners of the counties creating the joint district.

NEW SECTION. **Section 19. Creation of a joint district.** Two or more counties may create a joint solid waste district through the procedures described in 7-13-203 through 7-13-212.

NEW SECTION. **Section 20. Municipalities authorized to contract with joint districts.** Joint districts may enter into agreements to provide solid waste disposal services but not collection services to municipalities located in adjoining counties that do not participate in the district. An agreement is subject to the approval of the county commissioners in the county in which the municipality is located.

NEW SECTION. **Section 21.** Board of directors. (1) The board of a joint district must be appointed by the counties.

(2) The county commissioners shall appoint to the board one commissioner from each county, a representative of each incorporated city or town, a representative of each county or city board of health, and any other representatives agreed to by the commissioners of all the counties creating the joint district.

(3) A municipality that contracts for solid waste services with a joint district but that is not located in the counties creating the joint district may be represented on the board as provided in the agreement with the joint district.

(4) The board may provide for an executive committee that has the authority to exercise all powers of the joint district, except that the entire board shall meet at least once a year to elect officers and select the executive committee. An executive committee must include at least one representative from each of the counties.

(5) The board has all powers and duties provided in 75-10-112.

NEW SECTION. **Section 22.** Administration of funds in a joint district. Fees and other money collected by a joint district may be administered either by entering into an

agreement with the county treasurer's office of one of the participating counties or through a fund established and administered by the board. Fees received by a county treasurer must be promptly deposited into funds and accounts established by the joint district.

NEW SECTION. **Section 23.** Service charges. Service charges must be established and collected in the manner provided in 7-13-231 through 7-13-233.

NEW SECTION. **Section 24.** Bonds and obligations. (1) A joint district may borrow money for any purpose provided in [sections 18 through 28] and issue bonds, including refunding bonds, in a form and upon terms as it may determine, payable from any revenue of the joint district, including revenue from:

(a) service charges authorized in [section 23];

(b) taxes levied pursuant to [section 26];

(c) grants or contributions from the state or federal government; or

(d) other sources.

(2) A JOINT DISTRICT MAY ISSUE A REVENUE BOND ONLY IF THE SALE OF THE BOND HAS BEEN APPROVED IN A GENERAL OR SPECIAL ELECTION BY A MAJORITY OF THE REGISTERED VOTERS IN THE JURISDICTIONS TO BE DIRECTLY SERVED BY THE JOINT DISTRICT.

~~(2)~~(3) The bonds may be issued by resolution of the

joint district ~~without--an--election---and~~ without any limitation of the amount, except that bonds may not be issued at any time if the total amount of principal and interest to become due in any year on the bonds and on any then-outstanding bonds for which revenue from the same source or sources is pledged exceeds the amount of the revenue to be received in that year as estimated in the resolution authorizing the issuance of the bonds. The board shall take all action necessary and possible to impose, maintain, and collect rates, charges, rentals, and taxes, if any are pledged, sufficient to make the revenue from the pledged source in a year at least equal to the amount of the principal and interest due in that year.

~~(3)~~(4) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102. Except as otherwise provided in [sections 18 through 28], bonds issued pursuant to [sections 18 through 28] by a joint district may be payable in principal and interest solely from revenues of the joint district and must state on their face the applicable limitations or restrictions regarding the source from which the principal and interest are payable.

~~(4)~~(5) Bonds issued by a joint district under [sections 18 through 28] are issued for an essential public and governmental purpose by a political subdivision within the meaning of 15-30-111(2)(a).

~~(5)~~(6) For the security of any bond, the joint district may by resolution make and enter into any covenant, agreement, or indenture. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be paid from any revenue referred to in [sections 18 through 28] prior to the payment of current costs of operation and maintenance of the solid waste management system.

NEW SECTION. **Section 25.** **Board to certify deficiency.** The board shall certify annually to the counties the anticipated revenue of the joint district and the amount of principal and interest payable for the next fiscal year. The board shall certify to the counties the amount of any deficiency for the ensuing period of 1 year for the payment of principal and interest due on any outstanding bonds of the joint district.

NEW SECTION. **Section 26.** **County tax levy.** (1) The counties participating in a joint district may levy a tax on all property in the joint district for the purpose of paying any deficiency certified by the board as provided in [sections 18 through 28].

(2) The counties may:

(a) agree by resolution to levy a tax not to exceed 2 mills if a deficiency is certified by the board; or

(b) levy a general tax for payment of any deficiency if

the question of levying a general tax is submitted to the qualified electors of each of the counties creating the joint district as provided in Title 7, chapter 7, part 22. A tax may not be imposed unless the majority of voters voting on the levy in each county approve the levy.

NEW SECTION. **Section 27.** Debt service fund. A joint district may create a debt service fund and accumulate in the fund a sum not to exceed an amount equal to the total amount of principal and interest due in any 2 subsequent years.

NEW SECTION. **Section 28.** Tax exemption. Any property in this state acquired by a joint district for purposes of operating a solid waste management system and any income derived by the joint district is exempt from taxation to the same extent as other property used for public purposes.

SECTION 29. SECTION 7-7-4426, MCA, IS AMENDED TO READ:

"7-7-4426. Authorization for undertaking and issuance of bonds. (1) The acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of any undertaking may be authorized under this part.

(2) Bonds may be authorized to be issued under this part by resolution or resolutions of the governing body of the municipality:

(a) without an election, except joint solid waste district and county solid waste bonds; or

(b) when authorized by a majority of the qualified electors voting upon such question at a special election, should the governing body in its sole discretion choose to submit the question to the electorate."

SECTION 30. SECTION 7-13-231, MCA, IS AMENDED TO READ:

"7-13-231. Authorization for charges for services. (1) To defray the cost of maintenance and operation of said refuse disposal district, the board shall establish a fee for service, with approval of the county commissioners, provided a public hearing has been held if written protest has been made ~~as provided in 7-13-211~~. An increase in fees may not be approved and implemented unless notice of such increase is given as provided in 7-13-208(1) and (2) and opportunity for protest is allowed as provided in 7-13-209 ~~and 7-13-211~~.

(2) This fee shall be assessed to all units in the district that are receiving a service, for the purpose of maintenance and operation of said district."

NEW SECTION. **Section 31.** Repealer. Sections 7-13-211, 7-13-241, 7-13-242, 7-13-243, 7-13-2401, 7-13-2402, 7-13-2403, 7-13-2404, 7-13-2405, and 7-13-2406, MCA, are repealed.

NEW SECTION. **Section 32.** Code commissioner instruction. In 7-13-201 through 7-13-243, MCA, the code commissioner is instructed to change the term "refuse" to

"solid waste" and the term "refuse disposal" to "solid waste management".

NEW SECTION. **Section 33.** Codification instruction. (1) [Sections 14 through ~~17~~ 16] are intended to be codified as an integral part of Title 7, chapter 13, part 2, and the provisions of Title 7, chapter 13, part 2, apply to [sections 14 through ~~17~~ 16].

(2) [Sections ~~18~~ 17 through 28] are intended to be codified as an integral part of Title 7, chapter 13, and the provisions of Title 7, chapter 13, apply to [sections ~~18~~ 17 through 28].

NEW SECTION. **SECTION 34.** COORDINATION INSTRUCTION. IF HOUSE BILL NO. 296 IS PASSED AND APPROVED AND IF IT INCLUDES A SECTION THAT AMENDS 7-5-2306, THEN [SECTION 1 OF THIS ACT], AMENDING 7-5-2306, IS VOID.

NEW SECTION. **Section 35.** Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 36.** Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 37.** Applicability to joint solid waste disposal. Joint refuse disposal districts organized under 7-13-241 prior to [the effective date of this act] are continued under [sections 18 through 28] and have all powers and duties of joint solid waste districts provided by [sections 18 through 28].

NEW SECTION. **Section 38.** Applicability to garbage and ash collection districts. (1) The duties and responsibilities of garbage and ash collection districts that exist within the boundary of a municipality must be assumed by the municipality on [the effective date of this act].

(2) Garbage and ash collection districts outside a municipality must become a solid waste district or part of an existing solid waste district upon passage of a resolution by the county commission.

(3) (a) The resolution must provide for compliance with the provisions of Title 7, chapter 13, part 2.

(b) If the boundaries and service charges for the new district remain the same as for the garbage and ash collection district, notice of intention or right to protest, as provided in 7-13-208 through 7-13-211, need not be provided.

NEW SECTION. **Section 39.** Effective date. [This act] is effective July 1, 1991.

-End-

Mr. President and Mr. Speaker:

We, your Free Conference Committee on Senate Bill No. 189, met and considered Senate Bill No. 189 (reference copy - salmon).

We recommend that Senate Bill No. 189 (reference copy - salmon) be amended as follows:

1. Title, line 10.
Strike: "7-7-4426,"
Following: "7-13-209,"
Insert: "7-13-210,"

2. Title, line 11.
Strike: "7-13-231,"

3. Title, line 12.
Strike: "7-13-211,"

4. Page 8, lines 6 through 8.
Strike: "a" on line 6 through "BASIS" on line 8
Insert: "an insufficient number of protests have been made as provided for in 7-13-211"

5. Page 9, line 25.
Following: "charges"
Insert: ", which may not be less than the actual cost of providing services"

6. Page 12, line 12.
Strike: "Bonds"
Insert: "Revenue bonds"

7. Page 12, lines 18 through 22.
Strike: subsection (2) in its entirety
Renumber: subsequent subsections

8. Page 13, line 3.
Following: "7-13-233"
Insert: "that are collected other than through tax notices and a lien upon property"

9. Page 13, line 4.
Strike: subsection (b) in its entirety
Renumber: subsequent subsections

10. Page 13, lines 8 through 21.
Strike: sections 15 and 16 in their entirety
Insert: "Section 15. Solid waste management district bonds authorized. (1) With the approval of the board of county commissioners, a solid waste management district may borrow money by the issuance of its bonds to:

(a) provide funds for payment of part or all of the cost of acquisition of property, construction of improvements, and purchase of equipment;

(b) provide an adequate working capital; and

(c) pay costs related to the planning, designing, and financing of a solid waste management system.

(2) The amount of bonds issued for the purposes provided for in subsection (1) and outstanding at any time may not exceed 22.5% of the taxable value of the property in the district as ascertained by the last assessment for state and county taxes prior to the issuance of the bonds.

(3) Each year at the time of levying county taxes, the board of county commissioners shall fix and levy a tax upon all property within the district sufficient to raise the amount necessary for the payment of bonded indebtedness.

(4) The bonds must be authorized, sold, and issued and provisions must be made for their payment in the manner and subject to the conditions and limitations prescribed for bonds of school districts in Title 20, chapter 9, part 4."
Renumber: subsequent sections

11. Page 14, line 6.
Strike: "18 through 28"
Insert: "17 through 26"

12. Page 14, lines 8 and 9.
Strike: "18 through 28"
Insert: "17 through 26"

13. Page 14, line 11.
Strike: "21"
Insert: "20"

14. Page 16, line 9.
Strike: "Bonds"
Insert: "Revenue bonds"

15. Page 16, line 11.
Strike: "18 through 28"
Insert: "17 through 26"

16. Page 16, line 15.
Strike: "23]"
Insert: "22] that are collected other than through tax notices and a lien upon property"

17. Page 16, line 16.
Strike: subsection (b) in its entirety
Renumber: subsequent subsections

ADOPT

REJECT

FCCR #1
SB 189

18. Page 16, lines 20 through 24.
Strike: subsection (2) in its entirety
Renumber: subsequent subsections

19. Page 17, line 1.
Following: ~~"and"~~
Insert: "without an election and"

20. Page 17, line 16.
Strike: "18 through 28"
Insert: "17 through 26"

21. Page 17, line 17.
Strike: "18 through 28"
Insert: "17 through 26"

22. Page 17, line 23.
Strike: "18 through 28"
Insert: "17 through 26"

23. Page 18, line 6.
Strike: "18 through 28"
Insert: "17 through 26"

24. Page 18, line 9 through page 19, line 5.
Strike: sections 25 and 26 in their entirety
Insert: "Section 24. Joint district bonds authorized. (1) Upon approval of the board of directors of the joint district, a joint district may borrow money by the issuance of its bonds to:

(a) provide funds for payment of part or all of the cost of acquisition of property, construction of improvements, and purchase of equipment;

(b) provide an adequate working capital; and

(c) pay costs related to the planning, designing, and financing of a solid waste management system.

(2) The amount of bonds issued for the purposes provided in subsection (1) and outstanding at any time may not exceed 22.5% of the taxable value of the property in the joint district as ascertained by the last assessment for state and county taxes prior to the issuance of the bonds.

(3) Each year at the time of levying county taxes, the board of county commissioners of each county in the joint district shall fix and levy a tax upon all property in the county within the joint district that is sufficient to raise the amount certified by the board of directors of the joint district for payment of bonded indebtedness of the district.

(4) The bonds must be authorized, sold, and issued and provisions must be made for their payment in the manner and subject to the conditions and limitations prescribed for bonds of school districts in Title 20, chapter 9, part 4. The issuance of the bonds must be approved in each county by

the joint district electorate voting on the question."
Renumber: subsequent sections

25. Page 19, line 16 through page 20, line 18.
Strike: sections 29 and 30 in their entirety
Insert: "Section 27. Section 7-13-210, MCA, is amended to read:

"7-13-210. Hearing on protest. (1) At the next regular meeting of the commissioners after the expiration of the time within which the protest provided for in 7-13-209 may be made, the commissioners shall proceed to hear and pass upon all protests so made, and its decision shall be final and conclusive.

(2) The commissioners shall evaluate and rule upon the factual accuracy of and legal basis for all protests made against the resolution of intent. Upon determining a factual or legal defect in the resolution of intent, the commission shall halt all further proceedings or modify the resolution.

~~(2)~~(3) In determining whether or not sufficient protests have been filed in the proposed district to prevent further proceedings therein, property owned by the city, county, and school districts shall be considered the same as any other property in the district. The commissioners may include commercial and industrial establishments in said district.

~~(3)~~(4) The commissioners may adjourn said hearings from time to time.""
Renumber: subsequent sections

26. Page 20, line 19.
Strike: "7-13-211,"

27. Page 21, line 4.
Strike: "through"
Insert: "and"
Strike: "16"
Insert: "15"

28. Page 21, line 7.
Strike: "through"
Insert: "and"
Strike: "16"
Insert: "15"

29. Page 21, line 8.
Strike: "17"
Insert: "16"
Strike: "28"
Insert: "26"

30. Page 21, lines 10 and 11.
Strike: "17" on line 10
Insert: "16"
Strike: "28" on line 11
Insert: "26"

31. Page 22, line 4.
Strike: "18"
Insert: "17"
Strike: "28"
Insert: "26"

32. Page 22, line 6.
Strike: "18"
Insert: "17"
Strike: "28"
Insert: "26"

And that this Free Conference Committee report be adopted.

For the Senate:

Chair, Sen. Weeding

Sen. Rea

Sen. Beck

For the House:

Chair, Rep. Cohen

Rep. O'Keefe

Rep. Gilbert

4/-23-91
Amd. Coord.

SB -1-23-91
Sec. of Senate

SENATE BILL NO. 189

INTRODUCED BY T. BECK, HARP, YELLOWTAIL, WEEDING, GAGE, REA, GRADY, RANEY

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE LAWS RELATING TO SOLID WASTE MANAGEMENT BY LOCAL GOVERNMENTS; AUTHORIZING MULTICOUNTY SOLID WASTE DISTRICTS; AMENDING SECTIONS 7-5-2306, 7-5-4304, 7-5-4321, 7-7-2501, 7-7-4402, ~~7-7-4426,~~ 7-13-202, 7-13-204, 7-13-209, 7-13-210, 7-13-212, 7-13-215, ~~7-13-2311,~~ 7-13-232, 7-13-233, AND 7-13-235, MCA; REPEALING SECTIONS ~~7-13-2111,~~ 7-13-241, 7-13-242, 7-13-243, 7-13-2401, 7-13-2402, 7-13-2403, 7-13-2404, 7-13-2405, AND 7-13-2406, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-5-2306, MCA, is amended to read:

"**7-5-2306. Use of installment purchase contracts.** When the amount to be paid as the purchase price for any vehicle or road machinery of any kind, for any other machinery, apparatus, appliance, or equipment, or for any materials or supplies of any kind shall exceed $4,000, the county governing body may provide for the payment of such purchase price in installments extending over a period of not more than 5 years, except contracts for solid waste management systems as defined by 75-10-103, which may not exceed 10 years, provided that at the time of entering into the agreement for such purchase, there shall be an unexpended balance of appropriation in the budget for the then-current fiscal year available and sufficient to meet and take care of such portion of the purchase price as is payable during the then-current fiscal year and the budget for each following year in which any portion of such purchase price is to be paid shall contain an appropriation for the purpose of paying the same."

Section 2. Section 7-5-4304, MCA, is amended to read:

"**7-5-4304. Certain contracts to be submitted to voters.** No contract may be let pursuant to 7-5-4302 that extends over a period of 5 years or more, except contracts for solid waste management systems as defined in 75-10-103, which may not exceed 10 years, without first submitting the question to a vote of the electors of the city or town."

Section 3. Section 7-5-4321, MCA, is amended to read:

"**7-5-4321. Grant of exclusive franchise -- election required.** (1) The council may not grant an exclusive franchise or special privilege to any person except in the manner specified in subsection (2). The powers of the council are only those expressly prescribed by law and those necessarily incident thereto.

REFERENCE BILL: Includes Free Conference Committee Report Dated 4-24-91

(2) No exclusive franchise for any purpose, except contracts for solid waste management systems as defined in 75-10-103, which may not exceed 10 years, may be granted by any city or town or by the mayor or city council thereof to any person, association, or corporation without first submitting the application therefor to the electors of the city."

Section 4. Section 7-7-2501, MCA, is amended to read:

"**7-7-2501. Authority to issue revenue bonds -- refunding revenue bonds.** (1) A county may issue county revenue bonds in the same manner and with the same effect as provided in chapter 7, part 44, of this title for issuance of municipal revenue bonds. County revenue bonds may be issued to finance any project or activity enumerated in chapter 16, part 21, or chapter 34, part 22 or 23, of this title or in Title 75, chapter 10, part 1. Revenues from the project for which the bonds are issued are the only revenues upon which a lien under the provisions of 7-7-4431 shall apply. No lien shall attach to other revenues or other property within the county.

(2) A county may refund revenue bonds issued under the authority provided in subsection (1) by the method provided in either part 45 or part 46 of chapter 7.

(3) In construing, for purposes of this section, the provisions of parts 44, 45, or 46 of chapter 7, "municipal"

is considered to refer to the county and "governing body" is considered to refer to the board of county commissioners whenever the board of county commissioners is acting pursuant to subsection (1)."

Section 5. Section 7-7-4402, MCA, is amended to read:

"**7-7-4402. Definitions.** Whenever used in this part, unless a different meaning clearly appears from the context, the following definitions apply:

(1) The term "governing body" shall include bodies and boards, by whatsoever names they may be known, having charge of finances and management of a municipality.

(2) The term "municipality" shall include any city or any town, however organized.

(3) The term "undertaking" shall mean any one or a combination of the following:

(a) water and sewer systems, together with all parts thereof and appurtenances thereto including but not limited to supply and distribution systems, reservoirs, dams, and sewage treatment and disposal works;

(b) public airport construction and public airport building;

(c) convention facilities;

(d) public recreation facilities; and

(e) public parking facilities, solid waste management systems, or other revenue-producing facilities and services

authorized in these codes for cities and towns."

Section 6. Section 7-13-202, MCA, is amended to read:

"7-13-202. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) "Board" means the board of directors as provided for in 7-13-213 ~~and 7-13-241~~.

(2) "Commissioners" means the board of county commissioners.

(3) "Family residential unit" means the residence of a single family.

(4) ~~"Refuse"--means--all-putrescible-and-nonputrescible solid--wastes--(except--body--wastes),--including---garbage, rubbish,-street-cleanings,-dead-animals,-yard-clippings,-and solid--market--and--solid--industrial--wastes.~~ "Solid waste" means all putrescible and nonputrescible wastes, including but not limited to garbage; rubbish; refuse; ~~hazardous wastes;~~ ashes; sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; ~~septic-tank-and-cesspool-pumpings;~~ construction and demolition wastes; dead animals, including offal; discarded home and industrial appliances; and wood ~~wastes~~ PRODUCTS OR WOOD BYPRODUCTS and inert materials. ~~The-term~~ "SOLID WASTE" does not ~~include~~ MEAN municipal sewage, industrial wastewater effluents, or mining wastes regulated

under the mining and reclamation laws administered by the department of state lands, SLASH AND FOREST DEBRIS REGULATED UNDER LAWS ADMINISTERED BY THE DEPARTMENT OF STATE LANDS, OR MARKETABLE BYPRODUCTS.

(5) ~~"Refuse---disposal---district"---means---an----area established--with--definite--boundaries--for--the-purpose-of collecting-and-disposing--of--all--refuse--created--in--said district.~~ "Solid waste MANAGEMENT district" means an area established within a county for the purpose of ~~collecting and--disposing--of--all--solid-waste-created-in-the-district~~ PLANNING AND OPERATING A SOLID WASTE MANAGEMENT SYSTEM AS DEFINED IN 75-10-103."

Section 7. Section 7-13-204, MCA, is amended to read:

"7-13-204. Resolution of intention to create ~~refuse disposal~~ solid waste management district. (1) Before creating ~~any--refuse--disposal~~ a solid waste management district, the commissioners shall pass a resolution of intention to do so.

(2) The resolution shall designate:

(a) the proposed name of such district;

(b) the necessity for the proposed district;

(c) a general description of the territory or lands of said district, giving the boundaries thereof;

(d) the general character of the collection service;

(e) the proposed fees to be charged for the service;

and

(f) the powers to be delegated to the board and the powers to be exercised only with the approval of the county commissioners."

Section 8. Section 7-13-209, MCA, is amended to read:

"**7-13-209. Right to protest.** (1) At any time within ~~30~~ ~~15~~ 21 days after the date of the first publication of the notice provided for in 7-13-208, any owner of property liable to be assessed for said service may make written protest against the proposed service or against the fees proposed to be charged for the service.

(2) Such protest must be in writing and be delivered to the county clerk, who shall endorse thereon the date of the receipt by him."

Section 9. Section 7-13-212, MCA, is amended to read:

"**7-13-212. Resolution creating district -- power to order improvements.** (1) Before ordering any of the proposed improvements, the commissioners shall pass a resolution creating the ~~refuse-disposal~~ SOLID WASTE MANAGEMENT district in accordance with the resolution of intention theretofore introduced and passed by the commissioners.

(2) The commissioners may change the boundaries and description of the district from the resolution of intention if the changes do not add territory or increase the proposed ~~fees.~~

~~(2)~~(3) The commissioners shall be deemed to have acquired jurisdiction to order improvements immediately upon the occurrence of one of the following:

(a) when no protests have been delivered to the county clerk within ~~30~~ ~~15~~ 21 days after the date of the first publication of the notice provided for in 7-13-208;

(b) when ~~a--protest--shall--have--been--found--by--said commissioners--to be--insufficient~~ HAVE NO PAGTHAL OR LEGAL BASIS AN INSUFFICIENT NUMBER OF PROTESTS HAVE BEEN MADE AS PROVIDED FOR IN 7-13-211; or

(c) when a protest shall have been overruled."

Section 10. Section 7-13-215, MCA, is amended to read:

"**7-13-215. Powers and duties of board.** ~~The board of a refuse-disposal district established and organized under this part has the following powers and duties, with the approval of the county commissioners of the counties involved:~~

~~(1) to develop and administer a program for the collection or disposal of refuse in the district;~~

~~(2) to employ personnel;~~

~~(3) to purchase, rent, or execute leasing agreements for such equipment and material necessary for carrying on an effective refuse collection or disposal program;~~

~~(4) to cooperate with any corporation, association, individual, or group of individuals, including any agency of~~

~~the federal, state, or local government, in order to carry out effective programs;~~

~~(5) to receive gifts, grants, or donations for the purpose of advancing the program and to acquire by gift, deed, purchase, or condemnation land necessary for refuse disposal purposes;~~

~~(6) to enforce department of health and environmental sciences or local board of health rules pertaining to the storage, collection, and disposal of refuse;~~

~~(7) to apply for and receive from the federal government or the state government, on behalf of the refuse disposal district, money appropriated by federal or state legislative bodies for aiding these programs;~~

~~(8) to borrow from any loaning agency funds available for assistance in planning or financing a refuse disposal district and repay these with the money received from the fees levied under this part.~~ Except for powers specifically reserved by the counties in the resolution creating the district, the board has the powers and duties provided in 75-10-112."

Section 11. Section 7-13-232, MCA, is amended to read:

"7-13-232. Determination of service charge. ~~(1) The fees shall be based upon a family residential unit, and fees for commercial and industrial accounts shall be based on the comparison with a typical residential unit as to volume and~~

~~type of waste produced.~~ (1) The board may establish, by resolution, rates for service charges, WHICH MAY NOT BE LESS THAN THE ACTUAL COST OF PROVIDING SERVICES. For solid waste MANAGEMENT districts other than joint districts, the rates must be subject to the approval of the county commissioners.

(2) Service charges may take into account:

(a) the character, kind, and quality of service; and

(b) the cost of providing the service, including but not limited to depreciation and the payment of principal and interest on money borrowed by the district for the acquisition and improvement of facilities and equipment.

(3) Service charges may be assessed per family residential unit or based on the size of a vehicle used to dispose of the waste; the volume or weight of the waste; or the cost, incentives, or penalties applicable to waste management practices.

(4) The initial rate for any solid waste district or joint solid waste MANAGEMENT district may not exceed the rate provided in the resolution creating the district.

~~(2)~~(5) Fees for mobile home park accounts must be paid by the registered owner of each mobile home in the mobile home park.

~~(3) In no case shall the fee for disposal service exceed one-half the total fee for both collection and disposal services.~~

(6) A notice of intention to enact a resolution to increase rates must be published as provided in 7-1-4128, and the district shall hold a public hearing prior to the meeting at which the resolution is considered."

Section 12. Section 7-13-233, MCA, is amended to read:

"7-13-233. Procedure to collect service charge. ~~The month-the-service-begins, the-department-of-revenue--or--its agents-shall-insure-that-the-amount-of-this-fee-is-placed-on the-tax-notices, to-be-collected-with-the-tax. If-a-property owner-fails-to-pay-this-fee, it-shall-become-a-lien-upon-the property.~~ (1) The service charge may be imposed for:

(a) any fiscal year for which the district establishes a budget or incurs costs related to planning or constructing a solid waste management facility; or

(b) services to begin within 12 months.

(2) The board shall certify to the county commissioners of the county served by the solid waste MANAGEMENT district the service charge needed for the current fiscal year, the due but unpaid service charges, and a description of the property against which the service charges are to be levied.

(3) The department of revenue or its agent shall ensure that the amount of the service charge is placed on property tax notices and that the service charge is collected with property taxes.

(4) The board may establish a system for collecting

service charges other than by tax notices to property owners issued by the department of revenue. The board may collect the service charge more often than property taxes are collected.

(5) If not paid, the service charge becomes delinquent and becomes a lien on the property, subject to the same penalties and the same rate of interest as property taxes."

Section 13. Section 7-13-235, MCA, is amended to read:

"7-13-235. Installment payments for capital improvements. To defray the initial cost of purchasing land and equipment, payments may be spread over a term of not to exceed ~~20~~ 10 years. ~~Payments--are--to--be--made--in--equal installments--out--of--the--money-received-from-the-fee-levy provided-for-in-this-part.~~"

NEW SECTION. **Section 14.** ~~Bonds~~ REVENUE BONDS and obligations. (1) The commissioners may issue revenue bonds, including refunding bonds, or borrow money for the acquisition of property, construction of improvements, or purchase of equipment or to pay costs related to planning, designing, and financing a solid waste management system.

~~(2)--THE-COMMISSIONERS-MAY-ISSUE-A-REVENUE-BOND-ONLY--IF THE--SALE--OF--THE--BOND--HAS--BEEN-APPROVED-IN-A-GENERAL-OR SPECIAL-ELECTION-BY-A-MAJORITY-OF-THE-REGISTERED--VOTERS--IN THE--JURISDICTIONS--TO-BE-DIRECTLY-SERVED-BY-THE-SOLID-WASTE DISTRICT.~~

(2)(3)(2) Revenue bonds may be issued in a form and upon terms as provided in 7-7-2501.

(3)(4)(3) Bonds or loans may be payable from any revenue of the joint solid waste MANAGEMENT district, including revenue from:

(a) service charges authorized in 7-13-233 THAT ARE COLLECTED OTHER THAN THROUGH TAX NOTICES AND A LIEN UPON PROPERTY;

(b)--taxes-levied-pursuant-to-(section-16);

(c)(B) grants or contributions from the state or federal government; or

(d)(C) other sources.

NEW-SECTION.--**Section 15.**--Board-to-certify--deficiency.--The--board--shall--certify-annually-to-the-commissioners-the amount-of-principal-and-interest-payable-for-the-next-fiscal year.--The-board-shall-certify-to-the-counties-the-amount--of any--deficiency--that--may-exist-for-the-ensuing-period-of-1 year-for-the-payment-of-principal-and-interest--due--on--any outstanding--bonds--for--which--the--district's-revenues-are pledged.

NEW-SECTION.--**Section 16.**--County---tax----levy.----The--commissioners-may-levy-a-tax-on-all-property--in--the--solid waste MANAGEMENT district--for--the--purpose--of--paying-a deficiency-certified-by-the--board.--The--commissioners--may levy--a--tax--not--to--exceed--2--mills--if--a-deficiency-is

certified-by-the-board.

NEW SECTION. **SECTION 15.** SOLID WASTE MANAGEMENT DISTRICT BONDS AUTHORIZED. (1) WITH THE APPROVAL OF THE BOARD OF COUNTY COMMISSIONERS, A SOLID WASTE MANAGEMENT DISTRICT MAY BORROW MONEY BY THE ISSUANCE OF ITS BONDS TO:

(A) PROVIDE FUNDS FOR PAYMENT OF PART OR ALL OF THE COST OF ACQUISITION OF PROPERTY, CONSTRUCTION OF IMPROVEMENTS, AND PURCHASE OF EQUIPMENT;

(B) PROVIDE AN ADEQUATE WORKING CAPITAL; AND

(C) PAY COSTS RELATED TO THE PLANNING, DESIGNING, AND FINANCING OF A SOLID WASTE MANAGEMENT SYSTEM.

(2) THE AMOUNT OF BONDS ISSUED FOR THE PURPOSES PROVIDED FOR IN SUBSECTION (1) AND OUTSTANDING AT ANY TIME MAY NOT EXCEED 22.5% OF THE TAXABLE VALUE OF THE PROPERTY IN THE DISTRICT AS ASCERTAINED BY THE LAST ASSESSMENT FOR STATE AND COUNTY TAXES PRIOR TO THE ISSUANCE OF THE BONDS.

(3) EACH YEAR AT THE TIME OF LEVYING COUNTY TAXES, THE BOARD OF COUNTY COMMISSIONERS SHALL FIX AND LEVY A TAX UPON ALL PROPERTY WITHIN THE DISTRICT SUFFICIENT TO RAISE THE AMOUNT NECESSARY FOR THE PAYMENT OF BONDED INDEBTEDNESS.

(4) THE BONDS MUST BE AUTHORIZED, SOLD, AND ISSUED AND PROVISIONS MUST BE MADE FOR THEIR PAYMENT IN THE MANNER AND SUBJECT TO THE CONDITIONS AND LIMITATIONS PRESCRIBED FOR BONDS OF SCHOOL DISTRICTS IN TITLE 20, CHAPTER 9, PART 4.

NEW SECTION. **Section 16.** Purpose. To provide safe,

efficient, and effective management of solid waste, two or more counties are authorized to cooperate in the creation of a joint solid waste district. A joint solid waste district is a political subdivision of the state for the purposes of the municipal finance consolidation act as provided in 17-5-1602 and for solid waste management services as provided in 75-10-112.

NEW SECTION. **Section 17.** Definitions. As used in [sections ~~18--through--28~~ 17 THROUGH 26], the following definitions apply:

(1) "Joint district" means a joint solid waste district created through the procedures outlined in [sections ~~18 through 28~~ 17 THROUGH 26].

(2) "Board" means the board of directors as provided in [section ~~21~~ 20].

(3) "Counties" means the commissioners of the counties creating the joint district.

NEW SECTION. **Section 18.** Creation of a joint district. Two or more counties may create a joint solid waste district through the procedures described in 7-13-203 through 7-13-212.

NEW SECTION. **Section 19.** Municipalities authorized to contract with joint districts. Joint districts may enter into agreements to provide solid waste disposal services but not collection services to municipalities located in

adjoining counties that do not participate in the district. An agreement is subject to the approval of the county commissioners in the county in which the municipality is located.

NEW SECTION. **Section 20.** Board of directors. (1) The board of a joint district must be appointed by the counties.

(2) The county commissioners shall appoint to the board one commissioner from each county, a representative of each incorporated city or town, a representative of each county or city board of health, and any other representatives agreed to by the commissioners of all the counties creating the joint district.

(3) A municipality that contracts for solid waste services with a joint district but that is not located in the counties creating the joint district may be represented on the board as provided in the agreement with the joint district.

(4) The board may provide for an executive committee that has the authority to exercise all powers of the joint district, except that the entire board shall meet at least once a year to elect officers and select the executive committee. An executive committee must include at least one representative from each of the counties.

(5) The board has all powers and duties provided in 75-10-112.

NEW SECTION. **Section 21.** **Administration of funds in a joint district.** Fees and other money collected by a joint district may be administered either by entering into an agreement with the county treasurer's office of one of the participating counties or through a fund established and administered by the board. Fees received by a county treasurer must be promptly deposited into funds and accounts established by the joint district.

NEW SECTION. **Section 22.** **Service charges.** Service charges must be established and collected in the manner provided in 7-13-231 through 7-13-233.

NEW SECTION. **Section 23.** ~~Bonds~~ REVENUE BONDS **and obligations.** (1) A joint district may borrow money for any purpose provided in [sections ~~18 through 28~~ 17 THROUGH 26] and issue bonds, including refunding bonds, in a form and upon terms as it may determine, payable from any revenue of the joint district, including revenue from:

(a) service charges authorized in [section ~~23~~ 22] THAT ARE COLLECTED OTHER THAN THROUGH TAX NOTICES AND A LIEN UPON PROPERTY;

~~(b) taxes levied pursuant to [section 26];~~

~~(c)~~ (B) grants or contributions from the state or federal government; or

~~(d)~~ (C) other sources.

~~(2) A JOINT DISTRICT MAY ISSUE A REVENUE BOND ONLY IF THE SALE OF THE BOND HAS BEEN APPROVED IN A GENERAL OR SPECIAL ELECTION BY A MAJORITY OF THE REGISTERED VOTERS IN THE JURISDICTIONS TO BE DIRECTLY SERVED BY THE JOINT DISTRICT.~~

~~(2)~~ ~~(3)~~ (2) The bonds may be issued by resolution of the joint district ~~without an election and~~ WITHOUT AND ELECTION AND without any limitation of the amount, except that bonds may not be issued at any time if the total amount of principal and interest to become due in any year on the bonds and on any then-outstanding bonds for which revenue from the same source or sources is pledged exceeds the amount of the revenue to be received in that year as estimated in the resolution authorizing the issuance of the bonds. The board shall take all action necessary and possible to impose, maintain, and collect rates, charges, rentals, and taxes, if any are pledged, sufficient to make the revenue from the pledged source in a year at least equal to the amount of the principal and interest due in that year.

~~(3)~~ ~~(4)~~ (3) The bonds may be sold at public or private sale and may bear interest as provided in 17-5-102. Except as otherwise provided in [sections ~~18 through 28~~ 17 THROUGH 26], bonds issued pursuant to [sections ~~18 through 28~~ 17 THROUGH 26] by a joint district may be payable in principal

and interest solely from revenues of the joint district and must state on their face the applicable limitations or restrictions regarding the source from which the principal and interest are payable.

~~(4)~~(5)(4) Bonds issued by a joint district under [sections ~~18--through--28~~ 17 THROUGH 26] are issued for an essential public and governmental purpose by a political subdivision within the meaning of 15-30-111(2)(a).

~~(5)~~(6)(5) For the security of any bond, the joint district may by resolution make and enter into any covenant, agreement, or indenture. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be paid from any revenue referred to in [sections ~~18-through-28~~ 17 THROUGH 26] prior to the payment of current costs of operation and maintenance of the solid waste management system.

~~NEW-SECTION.--Section 25.--Board--to certify deficiency.--The--board--shall--certify--annually--to--the--counties--the anticipated-revenue-of-the-joint-district-and-the-amount--of principal-and-interest-payable-for-the-next-fiscal-year.-The board--shall--certify--to--the--counties--the--amount-of-any deficiency-for-the-ensuing-period-of-1-year-for-the--payment of--principal--and--interest-due-on-any-outstanding-bonds-of the-joint-district.~~

~~NEW-SECTION.--Section 26.--County--tax--levy.--(1)---The--~~

~~counties-participating-in-a-joint-district-may-levy-a-tax-on all-property-in-the-joint-district-for-the-purpose-of-paying any--deficiency--certified--by--the--board--as--provided--in [sections-18-through-28].~~

~~(2)--The-counties-may:~~

~~(a)--agree--by--resolution-to-levy-a-tax-not-to-exceed-2 mills-if-a-deficiency-is-certified-by-the-board;-or~~

~~(b)--levy-a-general-tax-for-payment-of-any-deficiency-if the-question-of-levying-a-general-tax-is--submitted--to--the qualified--electors--of--each--of--the-counties-creating-the joint-district-as-provided-in-Title-7,-chapter-7,-part-22.-A tax-may-not-be-imposed-unless-the-majority-of-voters--voting on-the-levy-in-each-county-approve-the-levy.~~

NEW SECTION. **SECTION 24.** JOINT DISTRICT BONDS AUTHORIZED. (1) UPON APPROVAL OF THE BOARD OF DIRECTORS OF THE JOINT DISTRICT, A JOINT DISTRICT MAY BORROW MONEY BY THE ISSUANCE OF ITS BONDS TO:

(A) PROVIDE FUNDS FOR PAYMENT OF PART OR ALL OF THE COST OF ACQUISITION OF PROPERTY, CONSTRUCTION OF IMPROVEMENTS, AND PURCHASE OF EQUIPMENT;

(B) PROVIDE AN ADEQUATE WORKING CAPITAL; AND

(C) PAY COSTS RELATED TO THE PLANNING, DESIGNING, AND FINANCING OF A SOLID WASTE MANAGEMENT SYSTEM.

(2) THE AMOUNT OF BONDS ISSUED FOR THE PURPOSES PROVIDED IN SUBSECTION (1) AND OUTSTANDING AT ANY TIME MAY

NOT EXCEED 22.5% OF THE TAXABLE VALUE OF THE PROPERTY IN THE JOINT DISTRICT AS ASCERTAINED BY THE LAST ASSESSMENT FOR STATE AND COUNTY TAXES PRIOR TO THE ISSUANCE OF THE BONDS.

(3) EACH YEAR AT THE TIME OF LEVYING COUNTY TAXES, THE BOARD OF COUNTY COMMISSIONERS OF EACH COUNTY IN THE JOINT DISTRICT SHALL FIX AND LEVY A TAX UPON ALL PROPERTY IN THE COUNTY WITHIN THE JOINT DISTRICT THAT IS SUFFICIENT TO RAISE THE AMOUNT CERTIFIED BY THE BOARD OF DIRECTORS OF THE JOINT DISTRICT FOR PAYMENT OF BONDED INDEBTEDNESS OF THE DISTRICT.

(4) THE BONDS MUST BE AUTHORIZED, SOLD, AND ISSUED AND PROVISIONS MUST BE MADE FOR THEIR PAYMENT IN THE MANNER AND SUBJECT TO THE CONDITIONS AND LIMITATIONS PRESCRIBED FOR BONDS OF SCHOOL DISTRICTS IN TITLE 20, CHAPTER 9, PART 4. THE ISSUANCE OF THE BONDS MUST BE APPROVED IN EACH COUNTY BY THE JOINT DISTRICT ELECTORATE VOTING ON THE QUESTION.

NEW SECTION. **Section 25. Debt service fund.** A joint district may create a debt service fund and accumulate in the fund a sum not to exceed an amount equal to the total amount of principal and interest due in any 2 subsequent years.

NEW SECTION. **Section 26. Tax exemption.** Any property in this state acquired by a joint district for purposes of operating a solid waste management system and any income derived by the joint district is exempt from taxation to the same extent as other property used for public purposes.

~~**SECTION 29.** --SECTION 7-7-4426, MCA, IS AMENDED TO READ:~~

~~"7-7-4426. --Authorization--for--undertaking-and-issuance of--bonds. --(1)--The--acquisition, --purchase, --construction, reconstruction, -improvement, -betterment, -or-extension-of-any undertaking-may-be-authorized-under-this-part.~~

~~(2)--Bonds-may-be-authorized-to--be--issued--under--this part--by--resolution-or-resolutions-of-the-governing-body-of the-municipality:~~

~~(a)--without--an--election, --except--joint--solid--waste district-and-county-solid-waste-bonds; -or~~

~~(b)--when-authorized-by--a--majority--of--the--qualified electors--voting--upon--such-question-at-a-special-election, should-the-governing-body-in-its-sole-discretion--choose--to submit-the-question-to-the-electorate."~~

~~**SECTION 30.** --SECTION 7-13-231, MCA, IS AMENDED TO READ:~~

~~"7-13-231. --Authorization--for-charges-for-services. --(1) To-defray-the-cost-of--maintenance--and--operation--of--said refuse--disposal--district, --the-board-shall-establish-a-fee for-service, -with--approval--of--the--county--commissioners, provided--a--public-hearing-has-been-held-if-written-protest has-been-made-as-provided-in-7-13-211. -An-increase--in--fees may--not--be--approved-and-implemented-unless-notice-of-such increase-is-given-as-provided-in--7-13-208(1)--and--(2)--and opportunity--for--protest-is-allowed-as-provided-in-7-13-209 and-7-13-211:~~

~~(2)--This-fee-shall-be-assessed--to--all--units--in--the district--that--are--receiving-a-service,-for-the-purpose-of maintenance-and-operation-of-said-district.~~"

SECTION 27. SECTION 7-13-210, MCA, IS AMENDED TO READ:

"**7-13-210. Hearing on protest.** (1) At the next regular meeting of the commissioners after the expiration of the time within which the protest provided for in 7-13-209 may be made, the commissioners shall proceed to hear and pass upon all protests so made, and its decision shall be final and conclusive.

(2) The commissioners shall evaluate and rule upon the factual accuracy of and legal basis for all protests made against the resolution of intent. Upon determining a factual or legal defect in the resolution of intent, the commission shall halt all further proceedings or modify the resolution.

~~(2)~~(3) In determining whether or not sufficient protests have been filed in the proposed district to prevent further proceedings therein, property owned by the city, county, and school districts shall be considered the same as any other property in the district. The commissioners may include commercial and industrial establishments in said district.

~~(3)~~(4) The commissioners may adjourn said hearings from time to time."

NEW SECTION. **Section 28. Repealer.** Sections ~~7-13-211,~~

7-13-241, 7-13-242, 7-13-243, 7-13-2401, 7-13-2402, 7-13-2403, 7-13-2404, 7-13-2405, and 7-13-2406, MCA, are repealed.

NEW SECTION. **Section 29. Code commissioner instruction.** In 7-13-201 through 7-13-243, MCA, the code commissioner is instructed to change the term "refuse" to "solid waste" and the term "refuse disposal" to "solid waste management".

NEW SECTION. **Section 30. Codification instruction.** (1) [Sections 14 ~~through~~ AND ~~17~~ 16 15] are intended to be codified as an integral part of Title 7, chapter 13, part 2, and the provisions of Title 7, chapter 13, part 2, apply to [sections 14 ~~through~~ AND ~~17~~ 16 15].

(2) [Sections ~~18~~ 17 16 through ~~28~~ 26] are intended to be codified as an integral part of Title 7, chapter 13, and the provisions of Title 7, chapter 13, apply to [sections ~~18~~ 17 16 through ~~28~~ 26].

NEW SECTION. **SECTION 31.** COORDINATION INSTRUCTION. IF HOUSE BILL NO. 296 IS PASSED AND APPROVED AND IF IT INCLUDES A SECTION THAT AMENDS 7-5-2306, THEN [SECTION 1 OF THIS ACT], AMENDING 7-5-2306, IS VOID.

NEW SECTION. **Section 32. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 33. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 34. Applicability to joint solid waste disposal.** Joint refuse disposal districts organized under 7-13-241 prior to [the effective date of this act] are continued under [sections ~~18~~ 17 through ~~28~~ 26] and have all powers and duties of joint solid waste districts provided by [sections ~~18~~ 17 through ~~28~~ 26].

NEW SECTION. **Section 35. Applicability to garbage and ash collection districts.** (1) The duties and responsibilities of garbage and ash collection districts that exist within the boundary of a municipality must be assumed by the municipality on [the effective date of this act].

(2) Garbage and ash collection districts outside a municipality must become a solid waste district or part of an existing solid waste district upon passage of a resolution by the county commission.

(3) (a) The resolution must provide for compliance with the provisions of Title 7, chapter 13, part 2.

(b) If the boundaries and service charges for the new

district remain the same as for the garbage and ash collection district, notice of intention or right to protest, as provided in 7-13-208 through 7-13-211, need not be provided.

NEW SECTION. **Section 36. Effective date.** [This act] is effective July 1, 1991.

-End-

Senator Bengtson took over the chair again.

HEARING ON SB-189

Presentation and Opening Statement by Sponsor: Senator Tom Beck, District 24, during the last interim he chaired a subcommittee on the Environmental Quality Council that dealt with solid waste and our municipal land fill dumps. This bill is a result of the work by that committee. He stated that this bill has several sections and he would go through each and briefly highlight what it deals with. Other experts would be testifying about the specifics. Section 1-3 deals with the restrictions of contracts on local governments. They can only levy contracts for 5 years. With the cost of landfill dumps and federal regulations, this has been amended to 10 years to recover these costs. Section 4 provides the counties with the authority to issue revenue bonds for the purpose of financing a solid waste system. Section 5 explains the laws counties will use for their bonding. They are the municipal laws of the State of Montana. Section #6 redefines the definition of refuge and solid waste to consist with the public health statutes. Section #7 clarifies solid waste management districts only have the authority specifically delegated by the county commissioners. This is a result of a Supreme Court decision that solid waste districts do not have the authority to establish or do anything not granted to them by the county commissioners. Section #8 asks that the law conform to the appeals or protest period. This changes the time from 30 days to 15 days. Section #9 states that the commissioner can not arbitrarily expand the district, but they may change the boundary description if the changes do not add territory or increase purposed fees. This stops them from going through the whole process to establish a new district if someone wants out of the district. Section #10 explains the powers and duties of the board. Section #11 allows district flexibility on the methods of charging for the services. Many counties use different ideas on how they assess the people in the district. Section #12 deals with the current law that will not allow the district to collect any fees until it begins a delivery service. This change asks for 1 year prior the district will be able to collect the fees to start this service. Section #13 allows districts to make installment payments other than equal payments. Some other proponent will explain that. Section #14 clearly establishes that county commissioners can issue revenue bonds for solid waste systems, and pledge the revenue of the district. More than one county will be encompassed, so those counties can levy revenue

bonds to support the solid waste system. To make the bonding possible Section 15 & 16 provide the backup for the counties to collect the revenue by levying 2 mills if something happens and the bonds can't be paid off. Section #17-19 establish joint districts that encompass more than one county. This is the guts of the bill. There are numerous counties on the highline that would like to join together and have one solid waste site. There has never been any provision in the law to allow this. This provides the opportunity to form multi-county districts. The rest of the sections mostly deal with things in the law. This gives you the meat and potatoes of the bill, and the other proponents will add to this.

Proponents' Testimony: Seldon S. Frisbee, Attorney at Law, representing the Northern Montana Joint Refuse District (NMJRD). Mr. Frisbee gave a thorough explanation of the bill and amended sections. (Exhibit #3) Mr. Frisbee said that if the amendment for joint districts is accepted then there should be there should be the addition that the creation of any joint district or any previously created district that complies with the provisions in this act, should be validated.

Tom Hammerbacker, Mayor of the City of Conrad, and member of the board of directors of NMJRD. We support this bill and he hope the committee will consider Mr. Frisbee's proposals as he is the attorney for the district and has worked for over two years on that district and its needs. Montana landfills are going to be jerked into the twentieth century, and streamline legislation to allow people to deal with this is necessary.

Pete Frazier, Director, Cascade City-County Environmental Health Department, and he served for 20 years as the Director of the Cascade Solid Waste Disposal District. He supports SB-189 but felt an amendment was necessary. (Exhibit #4). He did not want to change the mobile park section that Mr. Frisbee suggested.

Chris Kaufman, Montana Environmental Protection Information Center, support this bill because their are provisions in this law that will be good for the environment. One of those is the encouragement of regional landfills. We are moving into a new age of recycling, and we want to make sure what is left over after recycling does go to a place that is safe and protects the ground water. It makes more sense to have a few located in regions throughout the state rather than one in every municipality. Also this bill will allow districts to charge their rates in a more flexible manner, and one we hope will be to charge by the volume of waste produced. This will encourage citizens to produce less waste and recycle more.

Frank Crowley, Montana Solid Waste Contractors Association (MSWCA), generally support this legislation. The association is a statewide comprised of private refuse haulers and landfill owners and operators. We support it because we recognize that adequate resources are necessary for everyone, public or private, who is facing the responsibility of solid waste management into the 90's and beyond. His testimony is divided in two parts. #1 with some specific language and #2 with the general concern and some recommendation. #1 regards the current entities that are named refuse disposal districts, Section 34, and he feels that operates adequate clause to capture those prior landfills. #2. Page 6, line 5, talks about collection and or disposing. The same phrase references ALL solid waste created in the district. This needs to be changed because some districts do not collect all the solid waste. Here in Helena, private concerns collect refuse from some commercial and residential operators in the district boundaries. So the language needs to be amended to "all or part of" the solid waste. Then on Page 6, line 25 shortens the protest time. The process currently takes a few months, so the shortening of this protest time will not really streamline that much. This protest time is a critical issue to allow the public their say, and 15 days is hardly time to organize and carry out a protest. We recommend deletion of that time change. The last comment is on Page 16, line 5, d. other sources was said to be there for repayment of funds if the bonding fails. This is a very broad subpart. The committee should inquire as to whether other sources relates back to Page 15, line 23, "payable from any revenue from the joint districts". If this opens the door to ALL county revenue sources, he suggested that this was too broad for keeping the district within its own budgetary constraints. Subsection d. should be deleted.

His broader consideration that relates to the future landscape of solid waste management. Currently in the state we have a mix of private and public operators. Both in hauling, collecting and operation of landfills. Recycling so far has been initiated and pursued by the private sector. There is a healthy element of competition. SB-189 allows multi-county districts which is a good idea, but it allows grants significant new powers to local government in way of assessments, taxes, and access to low interest sources of public finance. We do not deny the need for some enhancement for local government to fund and operate local solid waste system, a bill of this magnitude makes us wonder if the private sector operating in the industry will be crowded out. This bill does not overly concern us because it is one in a series of bills which have been developed by the EQC under SJR-19 from the 51st Legislature. EQC conducted a very thorough assessment. Members from the private industry participated in

that, and this is one of the bills that was produced from that. Each bill reflects what EQC suggests needs to happen over the next many years to have an integrated and effective solid waste management program in the state. SB-189 is one of those recommended. One of the companion bills is SB-99 which is also been assigned to this committee. SB-99 is slowly working its way to action in this committee. SB-99 deals with the long standing provision of the state's solid waste act, which requires that private industry be utilized to the maximum extent possible in the provisions of solid waste services in the state. He conceded that the preference has been on the books for many years has only had lip service at best. What SB-99 does two things to amend that preference. #1 it reaffirms the preference by requiring that for new systems, the private sector applicant if there is one, must be given the preference if it can provide the service for substantially the same cost as the public bid. #2 it establishes a procedure for assuring that local government will give consideration to a private proposal if there is one. Even if SB-99 is enacted it gives no guarantees, but it does recognize the legitimate and necessary role in the private sector who operates in this industry. From the MSWCA point of view SB-99 is closely related to SB-189. If both bills are passed then the MSWCA has a chance of holding its own, despite the significant funding powers granted to local government in SB-189. If SB-189 passes, but SB-99 does not, then a substantial shift will occur where the public sector will have clear advantages on how it can finance and fund solid waste management systems. The private sector will have an even more difficult time remaining viable. Therefore, we see a clear linkage, and these two bills should be considered together. MSWCA asks the committee to defer any action on SB-189 until you have heard SB-99. By deferring action on SB-189, you eliminate the chance of adopting only one of these EQC bills. That could strike a serious blow to the future of the private solid waste industry.

Gene Huntington, Financial Consultant, Environmental Quality Council and helped write this bill. He would be available to answer questions.

Pat Trusler, Administrator of Land Services, Lake County, and also involved with the solid waste district since 1978. He was not going to comment, but Mr. Crowley brought up SB-99. Mr. Trusler is concerned that this is not a hearing for SB-99, the committee should not defer on SB-189 until SB-99 comes up. Senator Bengtson said during the hearing on SB-195 that you risk the opportunity for local government to have expanded authority to raise money to defer the cost of the new regulations. He asked that all the comments concerning SB-99 be stricken from the

testimony.

Senator Bengtson said that the testimony would not be stricken, but Mr. Trusler's request would be noted.

Opponents' Testimony: Ben Cohen, NVR Inc, Whitefish. He is a small private contractor who is in the hauling, not disposal business. He hauls all the refuse to the Flathead County Refuse District's landfill. That district budget is a budget of about $2 million/year. Their rates are set by the former mechanism in section 7-13-232 which he is happy to see is being amended in this bill. They have a board with 11 members that is suppose to meet once a month, but does not meet once a month. The citizens of the county are lucky if the board meets nine times a year. So basically they have a manager with close to $2 million dollar budget with very little public oversight. He has increased fees from $19.50 to $30.50 with board approval. A citizens group was concerned about the process of solid waste and the lack of recycling. They asked the manager what the new money would be used for, and he felt that he did not have to tell them. He got the increase from the board without a budget of what the new funds would be used for, and it was done with little oversight. Mr. Cohen is concerned that this type of abuse will continue on a larger scale in these joint districts. In addition, the citizens group has asked the manager to separate out the costs of the landfill and the transfer and hauling. There are two different operations in refuse disposal districts. One is establishing transfer sights, picking up materials, bringing it to the landfill. The other operation is the actual excavation, back-filling, and placement of material in the ground. Possibly there is the testing of tail water. The manager of the Flathead district will not give this information to the citizens. When pushed, he says he does not even no how much material he is putting in this landfill. He has a guess. Mr. Cohen asked the committee that if they are going to create monster districts that they be made accountable to the citizens and the communities that they serve. They should be required by law to have accounting system that lets people know what the funds are spent on.

Questions From Committee Members:
Senator Harding asked Senator Beck where the support of the county commissioners was, and why weren't there any testifying on behalf of the bill? Senator Beck said that county commissioners were on the interim study, and that the county commissioners of Northern Montana do support this bill.

Senator Hammond asked Mr. Frisbee what was the final count of the

counties in the joint district. Mr. Frisbee said that 3 counties were involved with parts of others. Pondera County (excluding the reservation) Glacier County (excluding west of Delta Mia Highway) Choteau County, Teton County, parts of Valier, and Conrad. Senator Hammond asked what the ones that did not come in are doing? Mayor Hammerbacker said that they are trying to come into the district. They realize they had poor information when they pulled out. We are negotiating right now.

Senator Vaughn asked Mr. Frisbee about the amendment dealing with mobile home parks? What is his feeling on changing it back to the home owner? Mr. Frisbee said he testified that his preference would be to the landowner responsible, because they don't come and go without record of property change. He deferred if people have difficulty with this. Senator Vaughn asked if the assessing of fees would be against the user, then who would be assessed the bonds? Mr. Frisbee said they are revenue bonds and there would be no tax levy, it would be revenue from the district would pay off the bonds. The backup of the 2 mill levy is in the bill. Mayor Hammerbacker said that they have a mobile park that has both residential and overnight hookups, so people come and go without notice. Mr. Frazier said that the assessment should be different for those types of assessment for a campground or rv sight v.s. a mobile home park. Mayor Hammerbacker said that they had a combination in this one sight. Mr. Frazer said they have an assessment that takes into account the shorter stays differently than long term.

Senator Thayer asked Mr. Cohen about his concern on Page 9 & 10, line 19-20 about the rates must be subject to approval by the county commissioners, Page 10 subsection 6 is the public hearing before rates can be changes, would these take care the problems in Flathead? Mr. Cohen said that they had public hearings, but no documentation was presented. So no one knew what the intention was for the new increase. Holding the hearing did not seem sufficient. Mr. Frisbee said that he thought the structure needed to be kept in mind. The resolution of intention that is published and adopted, sets the top fee to be collected, and in their case it is $68/year. That notification is mailed to every property owner to be affected. They, within the protest period, can protest. If a majority object, there can be no increase. Then that same process must be initiated again for an increase. The other statement, under the law, the district is a local government entity, subject to budget law, and they must expend the monies for the purposes indicated. The books are public record. If there is a local problem in Flathead county, it would should be taken care of by budget laws, and all other operating laws of local government.

Senator Harding asked Pat Trusler why he did not want the private enterprise concerns to be entered into this discussions? Mr. Trusler said his only comment was that this was a hearing for SB-189, revising solid waste law. SB-99 deals with something else, and nothing concerning SB-99 should be allowed during this hearing, nor should SB-189 be held hostage until that bill is heard.

Closing by Sponsor: Senator Beck closed by asking the committee to consider an amendment he had prepared by Pat Sihler (Exhibit #5). It coincide the definition of solid waste with present law. He asked the committee to enter this. Senator Beck said that this bill would definitely need thorough discussion by the committee. The bill's intent is to allow counties that want to form multi-county solid waste disposal districts to do so. Federal regulations are coming down, and these make it extremely costly for each county to have a dump. This is the right approach to limiting the number of landfill dumps that we will see in the state, and it will try to lighten the burden to those local people by allowing them to group and fund those landfills.

Senator Bengtson directed the secretary to put the amendment in the committee books to be considered during Executive Action on SB-189.

ADJOURNMENT

Adjournment At: 5:20 p.m.

Esther Bengtson
ESTHER BENGTSON, Chairman

Joyce Inchauspe-Corson
JOYCE INCHAUSPE-CORSON, Secretary

EB/jic

ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

DATE 2-7-91

52 LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
Senator Beck	X		
Senator Bengtson	X		
Senator Eck	X		
Senator Hammond	X		
Senator Harding	X		
Senator Kennedy	X		
Senator Thayer	X		
Senator Vaughn	X		
Senator Waterman	X		

Each day attach to minutes.

DATE February 7, 1991

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppos
Tom Hammerbacker	City of Laurel	189		
Chuck Stearns	City of Missoula	HB 119	✓	
Janet Jessup	Hunting Unit Assoc	189	✓	
Tom Gomez	DHES	189	✓	
RICK GUSTINE	MHRCS	195		—
DAN WHYTE	C.S.C. OF MONTANA			
Brendan Beatty	Montana Realtors	195	✓	
Pat Trusler	Lake County	189	Amend	
Pete Franzier	City of Wolf Creek	154	Amend	
Joanne McChance	MT Tech. Council	195		✓
Elsie Huntington	EQC			
[illegible]	[illegible]	195	✓	
[illegible]	MSGA MMCA			
[illegible]	MT. Solid Waste Contractors	189	✓	
[illegible]	MACo	154	✓	
[illegible]	MVF Inc. [illegible]	169		✓
[illegible]	MT Solid Waste Ass	189	✓	

(Please leave prepared statement with Secretary)

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 7 day of Feb, 1991.

Name: Pete Frazier

Address: 3365 17 Ave S

Gt Falls

Telephone Number: 761-3565 761-1170 work

Representing whom?

City - Co Health Dept

Appearing on which proposal?

SB 169

Do you: Support?____ Amend? Y Oppose?____

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 3
DATE 2-7-91
BILL NO. SB-189

SELDEN S. FRISBEE
ATTORNEY AT LAW
P.O. BOX 1998, 13 EAST MAIN STREET
CUT BANK, MONTANA 59427-1998

Telecopier (Fax) No. (406)873-4342

OFFICE (406) 873-2263
RES (406) 873-4374

September 10, 1990

Gene Huntington
Huntington & Fenter
P.O. Box 364
Helena, MT 59624

Dear Gene:

Following are suggestions I have concerning joint refuse disposal districts, and changes in, or amendments to, the laws affecting these joint refuse disposal districts.

This is not intended as a comprehensive analysis by any means, nor am I using specific language that I believe might be used in amendments, or changes to, the applicable statutes.

I have not endeavored to analyze every possible pertinent statute, but following are just some of the matters that might be considered.

1. CONFLICT BETWEEN NOTICE PROVISIONS.

I earlier told you about the conflict between the notice provisions of Sec. 7-13-208, 7-13-209 and 7-1-2121.

Sec. 7-13-209 provides that any owner has 30 days after the first publication of the notice within which to protest.

Sec. 7-13-208 provides that notice shall be published as provided in 7-1-2121.

Sec. 7-1-2121 provides in subsection 5 that the notice must be published twice, with at least 6 days separating publication. The first publication must be no more than 21 days prior to the action and the last no less than 3 days prior to the action. If this provision is followed, then the property owners will not be allowed 30 days after the first publication of the notice within which to make their protest.

Two changes can be made. Either the provisions of Sec. 7-1-2121 be followed with a change in sections 7-13-208 and 7-13-209 reducing the notice period to the owner to 15 days, or letting the 30 day notice provision stand, doing away with the reference to Sec. 7-1-2121, and adding further provisions showing how often the notice should be published.

2. AUTHORIZATION FOR CITIES AND TOWNS TO ENTER A JOINT REFUSE DISPOSAL DISTRICT ABSENT ANY ACTION BY THE COUNTY COMMISSIONERS.

One of the problem encountered is the inability of a city or town independently of the county commissioners to become a part of a joint refuse disposal district. Some provision should be made for cities and towns to adopt a resolution of intention and to enter into a joint refuse disposal district where the county commissioners either fail or refuse to become a part of the action, such as we encountered in Toole County.

In order to do this, Sec. 7-13-202 should have the definition added of cities or towns and what is intended by the use of those words.

Sec. 7-13-203 which provides "The commissioners may create a refuse disposal district" should add in some sort of language that in the absence of such action by the commissioners, the cities or towns in a county where the commissioners fail to act may also create a refuse disposal district. If that is done, then Sec. 7-13-204, 208, 210, 212, 213, 231, 241, and 243 would have to be amended by some language referring to the governing body of the city or town in the absence of any action by the county commissioners.

This could also be accomplished by an amendment of Sec. 7-11-1102, multi-jurisdictional service districts, adding to the listed services refuse disposal districts and joint refuse disposal districts.

3. PROVISION AUTHORIZING CHANGE IN BOUNDARIES AND TERRITORIES BETWEEN ADOPTION OF THE RESOLUTION OF INTENTION AND THE ADOPTION OF THE RESOLUTION CREATING THE REFUSE DISPOSAL DISTRICT.

You are familiar with the problems created by changes by the various county commissioners resulting in deletion of lands, and changes in the boundaries of the lands, included in the joint refuse disposal district. There should be some

provision made in the statutes providing that the deletion of territories from those described in the resolution of intention will not invalidate prior to subsequent proceedings, provided no increase in fees proposed to be charged as specified in the resolution of intention, is made.

Just a word of explanation. Much litigation in connection with special improvement districts has indicated that people provided the right to protest have the right to know the amount of the taxes, or the fees to be levied, in deciding whether or not to protest. This seems to be a constitutional question. For this reason, I feel that as long as a change in the amount of land included in the district does not increase the amount of fees, we are on safe ground. However, I believe there is a necessity for such a provision to be enacted. Sec. 7-13-212 might very well be amended by the inclusion of this type of language. This type of language could be added as an exception or a provision in subsection 1 of Sec. 7-13-212.

4. DELETION OF REQUIREMENT OF APPROVAL OF COUNTY COMMISSIONERS OF ACTIONS ON THE PART OF THE BOARD OF DIRECTORS OF THE JOINT REFUSE DISPOSAL DISTRICT.

Sec. 7-13-215 sets out the powers and duties of the board but provides they can be exercised only "with the approval of the county commissioners of the counties involved." Sec. 7-13-231 provides for the establishment of a service fee, with the approval of the county commissioners.

I believe that the statute should be amended to do away with the necessity of the approval of the county commissioners, but if we wish to retain that option, then I would suggest an amendment of Sec. 7-13-215 to provide for a delegation of this authority to the board and for a prior blanket approval by the board of county commissioners of the exercise of either all, or any specified, powers set out in 7-13-215. The same sort of a provision could be written into 7-13-231.

In our proceedings I handled this by the following provision:

> "Sec. 7-13-215 Montana Code Annotated provides that the board of directors shall have the foregoing powers and duties, with the approval of the county commissioners of the counties involved. Each of the undersigned board of county commissioners, so far as it is legally entitled to do so, does hereby give

advance approval of the exercise of these powers and duties by the board of directors without the necessity of obtaining specific approval for each act performed, or decision made, by the board of directors. By this provision, it is the intention of each of the undersigned board of county commissioners to, in effect, delegate to the board of directors each and every of the foregoing powers and duties."

5. BOARD OF DIRECTORS AND AUTHORIZATION FOR EXECUTIVE COMMITTEE.

Sec. 7-13-242 provides for the composition of the board of directors of a joint district and, as you know, provides for one commissioner from each county involved, one member from each of the incorporated cities or towns, and one member from each of the county or city/county boards of health. As you know, this can result in a very cumbersome type of a board.

I believe an amendment to this section could be made providing that the board would be entitled to elect or appoint an executive committee to exercise all of the powers of the board. While I think this can be done without statutory blessing, I think it would be a precautionary measure to provide for such an amendment.

Furthermore, nothing in the statutes provide for the term of office of the directors. Some provision to the general effect should be made that the term of office shall be as specified by the appointing authority, or in case of an elected official for his term of office.

6. AMENDMENT OF THE "MULTI-JURISDICTIONAL SERVICE DISTRICTS" PROVISIONS.

Sec. 7-11-1101 and 7-11-1102 provide for multi-jurisdictional service districts and the services that may be provided. Curiously enough, no mention is made in 7-11-1102 of refuse disposal district or joint refuse disposal districts. It is my suggestion that 7-11-1102 be amended to specifically cover this omission. If this were done, it would provide another method for the creation of a joint refuse disposal district which would be less burdensome than the one that we are going through.

7. AUTHORIZATION FOR JOINT REFUSE DISPOSAL DISTRICTS TO ENTER INTO INTERLOCAL AGREEMENTS.

Curiously enough, there doesn't seem to be any specific provision providing for joint refuse disposal districts to enter into interlocal agreements. Sec. 7-11-103 provides that public agencies can enter into interlocal agreements and it includes in that definition any political subdivision, including municipalities, counties, school districts and any agency or department of the State of Montana. It might be very well to add to 7-11-103, or include in it, joint refuse disposal districts specifically.

8. CLARIFICATION OF TERM OF INTERLOCAL AGREEMENTS.

One further misunderstanding has been occasioned by Sec. 7-11-206 and 7-11-105 concerning interlocal agreements.

Part 2 provides for a "interlocal cooperation commission." Sec. 7-11-206 provides "all commissions shall terminate five years from the date of their establishment." This has created some sort of a feeling that perhaps this provision places a limitation upon the term or duration of an interlocal agreement.

Sec. 7-11-105 (Part 1, Interlocal Agreements) provides, among other things, the contract authorized by 7-11-104 shall specify the following:

1. (its duration).

It is obvious that there is no limitation on the duration of the interlocal agreement and I believe that this section governs the creation of the interlocal agreement unless an interlocal cooperation commission is created under the provisions of Part 2. Nonetheless, it might be well to provide in Sec. 7-11-206 that this is not intended to create any sort of a limitation on the duration of an interlocal agreement adopted under the provisions of Part 1.

9. ADMINISTRATION OF DISTRICT FUND.

Sec. 7-13-234 provides that all fees received by the district shall be placed in a separate fund with the county treasurer and that warrants on the fund shall be drawn by the board of county commissioners upon presentation of claims approved by the board. Sec. 7-13-243 provides that fees and

other money collected by joint refuse disposal districts may be administered by one county treasurer's office upon mutual agreement by the county commissioners of any joint refuse disposal district.

I believe that either or both of these sections should be amended by providing that the proceeds may also be administered by the district board, and an account opened by the district board into which the service fees are deposited, and from which the service fees are disbursed. Further provision should be made that upon receipt by the county commissioners or the county treasurer of the fees from the refuse disposal district assessments, the treasurer shall remit those fees to the district fund.

10. PROVIDE THAT FEES CAN BE COLLECTED IN ADVANCE OF COMMENCEMENT OF SERVICE FOR FINANCING CAPITAL IMPROVEMENTS.

Sec. 7-13-216 provides that fees may be levied only against that part of the district that is receiving service. Sec. 7-13-231 also provides that the fees shall be assessed to all units in the district that are receiving a service, for the purpose of maintenance and operation of the district. An amendment should be made to these sections which provides for the fee to be collected for capital expenditures immediately upon creation of the district. This can be done through either amendment or the addition of a separate section so providing. A little refinement might be a separate section governing the collection of fees for capital expenditures as distinguished from fees collected for the purpose of maintenance and operation of the district or commencement of service.

11. SPECIFIC AUTHORIZATION FOR ISSUANCE OF REVENUE BONDS.

I haven't found anything in the statutes which specifically authorizes the issuance of revenue bonds by the joint refuse disposal district, or by the counties to defray the expense of the service and capital expenditures. Sec. 7-13-215 provides for the borrowing from any loaning agency funds available for assistance in planning or financing a refuse disposal district and the repayment of these borrowings with the money received from the fees levied under this part (Subsection 8, Sec. 7-13-215).

Sec. 7-13-215 might very well be amended by the addition of a subsection 9 which specifically authorizes the issuance of revenue bonds.

12. ADDITIONAL PROVISION REGARDING CHANGES IN BOUNDARIES.

I earlier discussed with you the problem encountered in connection with changing boundaries after the adoption of the resolution of intention. Sec. 7-13-217 provides that the governing body of the district may, by resolution, make such changes in the boundaries of said district as they shall deem reasonable and proper, following the same procedures of notice and hearing outlined under 7-13-205 and 7-13-212. This section creates a conflict possibly in the question of whether or not boundaries can be changed between the adoption of the resolution of intention and the adoption of the resolution creating the district. I believe that an amendment to this section will do away with that possible conflict. Some sort of language such as the following might very well be added to Sec. 7-13-217. Sec. 7-13-217 might very well start out with:

> "After the creation of the district by adoption of the resolution creating the district and the determination of the territory or lands to be included in said district, and the boundaries thereof, as provided by Sec. 7-13-212, the board of directors of the district may be resolution make such changes in the boundaries of said district as they shall deem reasonable and proper, following the same procedures of notice and hearing outlined under 7-13-205 and 7-13-212."

Gene, the foregoing are the changes or amendments which come to mind and if any later occur, I'll be sure to relay them on to you.

Yours very truly,

SELDEN S. FRISBEE

By: Selden S. Frisbee

SSF/jrs

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 4
DATE 2-7-91
BILL NO. SB-189

TESTIMONY ON SB 189

MADAM CHAIR AND COMMITTEE MEMBERS, MY NAME IS PETE FRAZIER, ENVIRONMENTAL HEALTH DIRECTOR WITH THE CITY-COUNTY HEALTH DEPARTMENT IN CASCADE COUNTY. IN ADDITION, I HAVE SERVED AS THE DIRECTOR OF THE CASCADE COUNTY SOLID WASTE DISPOSAL DISTRICT SINCE ITS CREATION 20 YEARS AGO.

IN GENERAL, WE SUPPORT SB 189, BUT WE FEEL IT NECESSARY TO POINT OUT A COUPLE AREAS THAT, IN OUR OPINION, MUST BE AMENDED.

ON PAGE 5, THE DEFINITION OF "REFUSE" HAS BEEN DELETED AND A NEW DEFINITION OF "SOLID WASTE" INCLUDED. WITHIN THIS NEW DEFINITION, SOLID WASTE IS DEFINED, AMONG MANY OTHER ITEMS, AS "HAZARDOUS WASTES" AND "SEPTIC TANK AND CESSPOOL PUMPINGS." ON PAGE 6, LINES 3-5, THE DEFINITION OF SOLID WASTE DISTRICT TELLS US THAT A DISTRICT MUST COLLECT AND DISPOSE OF ALL SOLID WASTE CREATED IN THE DISTRICT. BASED ON THESE DEFINITIONS, ALL DISTRICTS WILL HAVE TO START ACCEPTING THE RESPONSIBILITY AND COST FOR HAZARDOUS WASTE DISPOSAL. SINCE HAZARDOUS WASTE MUST BE DISPOSED OF IN A CLASS I HAZARDOUS WASTE DISPOSAL SITE, OF WHICH THERE IS NONE IN THE STATE OF MONTANA, DISTRICTS WILL BE REQUIRED TO ASSURE ANY HAZARDOUS WASTES RECEIVED ARE PROPERLY PACKAGED, TRANSPORTED, AND DISPOSED OF AT OUT OF STATE FACILITIES AT A SUBSTANTIAL COST AND LIABILITY. THE MONTANA HAZARDOUS WASTE ACT CURRENTLY ADDRESSES HAZARDOUS WASTE AND PUTS THE RESPONSIBILITY FOR DISPOSAL ON THE GENERATOR OF THE WASTES. WE ARE SURE THAT IT IS NOT THE INTENTION OF SB 189 TO CHANGE THIS PROCEDURE. THEREFORE, WE RECOMMEND THAT THE TERM "HAZARDOUS WASTE" BE DELETED AT THE END OF LINE 15 AND THE BEGINNING OF LINE 16 ON PAGE 5 IN ORDER TO ELIMINATE ANY CONFUSION.

AGAIN, BASED ON THE DEFINITION OF SOLID WASTE DISTRICT ON PAGE 6, LINES 3-5, DISTRICTS WILL BE REQUIRED TO ACCEPT SEPTIC TANK AND CESSPOOL PUMPINGS, YET MOST, IF NOT ALL, STATE SOLID WASTE LANDFILL LICNESES ISSUED BY THE STATE SOLID & HAZARDOUS WASTE BUREAU PROHIBIT LANDFILLS FROM ACCEPTING LIQUID WASTES. THE PROPOSED DEFINITIONS OF SOLID WASTE AND SOLID WASTE DISTRICT WOULD FORCE LANDFILL OPERATORS TO EITHER VIOLATE PROVISIONS OF THEIR STATE LICENSE OR VIOLATE PROVISIONS OF STATE LAW. THESE WASTES ARE HANDLED UNDER THE EXISTING CESSPOOL, SEPTIC TANK AND PRIVY CLEANER ACT AT APPROVED LAND APPLICATION DISPOSAL SITES. THEREFORE, WE RECOMMEND THAT THE TERM "SEPTIC TANK

AND CESSPOOL PUMPINGS" ON LINE 18, PAGE 5, BE DELETED.

ONE FINAL DEFINITION REVISION HAS TO DO WITH "SOLID WASTE DISTRICT" ON PAGE 6, LINES 3-5. AS WRITTEN, THIS DEFINITION INDICATES SOLID WASTE DISTRICTS WILL BE, OR ARE, INVOLVED IN BOTH COLLECTION AND DISPOSAL OF SOLID WASTE. I KNOW OF NO DISTRICT CURRENTLY IN OPERATION IN MONTANA THAT PROVIDES COLLECTION SERVICES. MANY DISTRICTS UTILIZE 40 CUBIC YARD OR SMALLER CONTAINER PROGRAMS IN CONJUNCTION WITH A LANDFILL, BUT THE PICKING UP OF CONTAINERS IS CONSIDERED A MEANS OF DISPOSAL, NOT COLLECTION. THEREFORE, FOR CLARIFICATION PURPOSES, IT WOULD APPEAR TO BE MORE APPROPRIATE, ON LINE 4, PAGE 6, AFTER THE WORD "COLLECTING" TO ADD "AND/OR" RATHER THAN JUST "AND."

WITH THESE AMENDMENTS, I WOULD URGE THE COMMITTEE GIVE SB 189 A "DO PASS" RECOMMENDATION.

THANK YOU.

P.

unanimously.

Motion: Senator Bengtson moved to Do Pass SB-195 as Amended. A roll call vote was taken, and the motion passed.

EXECUTIVE ACTION ON COMMITTEE BILL-TITLE 7

Discussion: C. Erickson explained that with the volume of bills, it is taking about 3 days to get the bill through the process. So she was not sure that the committee would have time to get the bill through before transmittal. After this meeting today, this committee only has 2 more, and Tuesday's agenda already has five bills to be heard. She thought the committee could meet the week of transmittal to consider the bill, but this committee bill must be in by Friday, February 22, 1991.

Motion: Senator Harding moved that the committee request a committee bill, that would address tier 1 of Title 7.

Recommendation and Vote: Senator Thayer asked what tier 1 addressed? Senator Thayer said it covered the boards. Senator Beck wanted to know how much work was involved before the committee asks C. Erickson to do this? C. Erickson said that it is not an awful lot of work. Senator Thayer said the alternative would be to take HB-64 and amend it. C. Erickson said the title of HB-64 would cause problems with changing to fit tier 1 needs. Senator Waterman said she would like the committee to act on HB-64, just in case the committee bill doesn't make it. Senator Bengtson asked for the vote. A roll call was taken and the committee was unanimous to request drafting this bill.

EXECUTIVE ACTION ON SB-189

Amendments, Discussion, and Votes: C. Erickson said there were two sets of amendments. (Exhibit #3, #3A). The first set were from Paul Sihler from the EQC, and Senator Beck approves these. Senator Beck said these are clean up language. That the reference to hazardous waste is removed because it should not be in this bill. They also struck septic tank and cesspool pumpings which generally go through a city waste disposal system, and not into a landfill dump. They inserted "timber and wood byproduct" into the bill because they are disposed of in landfills. C. Erickson the second set of amendments were proposed during the hearing, and Senator Beck requested her to draft them. They do a couple of things: #1 they change the definition of solid waste district to "solid waste management district", amendment #2

Exhibit 3A. The point was made during the hearing that solid waste districts seldom "collect", so this parallels the language in 75-10-103.

Gene Huntington said that this was new language, "collecting and disposing", and the intent was to make this section of local government law consistent with the public health law in 75-10-103. The way to address that was to reference 75-10-103.

C. Erickson said the next change was about the installment payments. There had been concern that two different time frames had be stated in the bill that contradict. The "10 years" for installments was adopted because that is what is currently offered for financing. Gene Huntington said that they are expecting contracting with the private sector, and to avoid confusion both sections should be the same. No one has had a 20 year installment purchase contract for a long time. C. Erickson said the other amendments were technical. #4 should not have "joint", #5 and #6 were mistakes in the codification that was in the wrong place, both technical errors.

Senator Beck moved both sets of the amendments. The vote was unanimous.

Motion: Senator Beck moved to Do Pass SB-189 as Amended.

Recommendation and Vote: The vote was taken as a roll call vote and it passed unanimously.

ADJOURNMENT

Adjournment At: 10:09 a.m.

Esther Bengtson
ESTHER BENGTSON, Chairman

Joyce Inchauspe-Corson
JOYCE INCHAUSPE-CORSON, Secretary

EB/jic

LG021691.SM1

8. Page 12, line 2.
Strike: "20"
Insert: "10"

9. Page 12, line 14.
Strike: "joint"

10. Page 19, line 6.
Strike: "17"
Insert: "16"

11. Page 19, line 10.
Strike: "18"
Insert: "17"

Signed: Esther Bengtson
Esther G. Bengtson, Chairman

2-16 11

Amd. Coord.

2-16-91 11:15

Sec. of Senate

SENATE STANDING COMMITTEE REPORT

February 16, 1991

MR. PRESIDENT:

We, your committee on Local Government having had under consideration Senate Bill No. 189 (first reading copy -- white), respectfully report that Senate Bill No. 189 be amended and as so amended do pass:

1. Page 5, lines 15 and 16.
Following: "refuse;" on line 15
Strike: "hazardous wastes;""

2. Page 5, line 18.
Following: "facilities;"
Strike: "septic tank and cesspool pumpings;"

3. Page 5, line 20.
Following: "wood" on line 20
Strike: "wastes"
Insert: "products or wood byproducts"

4. Page 5, line 21.
Following: "materials. "
Strike: "The term"
Insert: ""Solid waste""
Following: "not"
Strike: "include"
Insert: "mean"

5. Page 5, line 24.
Following: "lands"
Insert: ", slash and forest debris regulated under laws administered by the department of state lands, or marketable byproducts "

6. Page 6, line 3.
Following: "waste"
Insert: "management"

7. Page 6, line 4.
Following: "of"
Strike: "collecting" on line 4 through "district" on line 5
Insert: "planning and operating a solid waste management system as defined in 75-10-103"

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 5
DATE 2-7-91
BILL NO. SB-189

Amendments to Senate Bill No. 189
First Reading Copy

Requested by Sen. Beck
For the Committee on Local Government

Prepared by Paul Sihler
February 6, 1991

1. Page 5, lines 15 and 16.
Following: "refuse;" on line 15
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Amendments to Senate Bill No. 189
First Reading Copy

Requested by Sen. Beck
For the Committee on Local Government

Prepared by Paul Sihler
February 6, 1991

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 3
DATE 2-16-91
BILL NO. SB-189

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Following: "refuse;" on line 15
Strike: "hazardous wastes;""

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Strike: "septic tank and cesspool pumpings;"

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Following: "not"
Strike: "include"
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Following: "lands"
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Amendments to Senate Bill No. 189
First Reading Copy

Requested by Senator Beck
For the Committee on Local Government

Prepared by Connie Erickson
February 15, 1991

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 3A
DATE 2-16-91
BILL NO. SB-189

1. Page 6, line 3.
Following: "waste"
Insert: "management"

2. Page 6, line 4.
Following: "of"
Strike: "collecting" on line 4 through "district" on line 5
Insert: "planning and operating a solid waste management system as defined in 75-10-103"

3. Page 12, line 2.
Strike: "20"
Insert: "10"

4. Page 12, line 14.
Strike: "joint"

5. Page 19, line 6.
Strike: "17"
Insert: "16"

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Strike: "18"
Insert: "17"

governments ... shall provide a preference to private industry if costs and services are substantially equal to alternate publicly operated services," if costs are the same and the private service is a taxpayer. Mr. Morris said the solid waste task force that developed this packet of bills believes language in the bill in its original form gave absolute preference to private industry. He opposes absolute preference.

REP. RANEY asked Mr. Morris how he would feel if the language were changed to delete absolute preference and allow it to go to private enterprise if costs were substantially equal. Mr. Morris said he was not in a position to negotiate on behalf of the Solid Waste Task Force. The preference would be to either leave the bill in the form it came from the Senate or table it.

REP. RANEY asked Mr. Hansen if he would object to the bill if absolute preference were removed, and substantially equal cost were added. Mr. Hansen said one of the big objections to the Senate bill as it was introduced was the stricken language at the top of Page 3, which allows DHES to write rules to tell cities, towns and counties how to operate landfills. Existing law includes some preference language, and private industry is to be used whenever feasible. There is no objection to that as long as the local elected governing body of the city or county can sit down, make an informed judgment after a public hearing.

REP. RANEY asked Mr. Crowley why there isn't preference now if services and costs are equal. Mr. Crowley said that in 1977 the Legislature inserted the provision that private industry was to be used to the maximum extent practical in the operation of solid waste systems. That was never implemented, and local government has no incentive to do it. EQC had said these alternatives should be put in the public eye. Preference needs some teeth.

REP. RANEY asked Mr. Morris how he would feel if the Class D carriers, the private enterprises, had rates regulated by the Public Service Commission. Mr. Morris said an overriding concern was whether a private provider had a five or 10 year contract. Long-term liability considerations could not be avoided. Local governments would always have that responsibility.

Closing by Sponsor:

SEN. HARP said he advocates amending the bill back to its original form.

HEARING ON SB 189

Presentation and Opening Statement by Sponsor:

REP. GILBERT presented SB 189 on behalf of SEN. TOM BECK, SD 24 - Deer Lodge. He said the bill allows local governments to contract with private contractors for periods up to 10 years, as opposed to the current five years; it makes solid waste terminology in

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REP. RANEY asked Mr. Hansen if he would object to the bill if absolute preference were removed, and substantially equal cost were added. Mr. Hansen said one of the big objections to the Senate bill as it was introduced was the stricken language at the top of Page 3, which allows DHES to write rules to tell cities, towns and counties how to operate landfills. Existing law includes some preference language, and private industry is to be used whenever feasible. There is no objection to that as long as the local elected governing body of the city or county can sit down, make an informed judgment after a public hearing.

REP. RANEY asked Mr. Crowley why there isn't preference now if services and costs are equal. Mr. Crowley said that in 1977 the Legislature inserted the provision that private industry was to be used to the maximum extent practical in the operation of solid waste systems. That was never implemented, and local government has no incentive to do it. EQC had said these alternatives should be put in the public eye. Preference needs some teeth.

REP. RANEY asked Mr. Morris how he would feel if the Class D carriers, the private enterprises, had rates regulated by the Public Service Commission. Mr. Morris said an overriding concern was whether a private provider had a five or 10 year contract. Long-term liability considerations could not be avoided. Local governments would always have that responsibility.

Closing by Sponsor:

SEN. HARP said he advocates amending the bill back to its original form.

HEARING ON SB 189

Presentation and Opening Statement by Sponsor:

REP. GILBERT presented SB 189 on behalf of SEN. TOM BECK, SD 24 - Deer Lodge. He said the bill allows local governments to contract with private contractors for periods up to 10 years, as opposed to the current five years; it makes solid waste terminology in

local government laws consistent with public health laws passed in the last session; it makes it possible for local governments to sell bonds to finance solid waste district facilities; and it will make it easier to organize multi-county districts.

He reviewed the bill, noting that Sections 17 through 19 are the heart of the bill. They establish joint districts encompassing more than one county. Current law provides a process for creating multi-county districts but does not recognize the character of a district within a county. Each district is a creature of its county. A different kind of entity must be created to have a multi-county district. A joint district must be a separate political subdivision.

Proponents' Testimony:

Walter Connell, the attorney representing Three Rivers Disposal in Bozeman, supported SB 189 with his proposed amendments. EXHIBIT 10

Selden S. Frisbee, the attorney representing Northern Montana Joint Refuse Disposal District in Cut Bank, said there are many conflicting or unclear statutes dealing with joint districts. It was almost impossible to get the Joint Refuse Disposal District organized. Notice provisions conflict. Questions arose concerning the invalidation of the proceedings because areas in the district were changed after notices were sent out. The powers of the board of directors were unclear.

EQC worked on some of these issues and the result is a fine-tuned piece of legislation that has been studied, thought out, argued, written and rewritten. If a part is changed now, it will emasculate the bill. Notices must be sent out by registered mail to every person who will be in the district. There also is a publication provision. The inadequacy of a 15-day notice has been commented on. The original bill provided a 30-day notice, but there was a conflict between a general publication statute that said publication must be on two weeks, and response must be within 15 days after the last publication. The 15-day notice would resolve the conflict.

The statutes allow the private sector to contract. If a private contractor can't meet the cost of the operation by the joint refuse disposal district, the taxpayer is not required to bear the expense. The best way to mess up the bill is to start amending it without understanding the mischief that the amendments will do.

He proposed Section 34, Page 20 read, "joint refuse disposal districts organized under 713-241 prior to the effective date of this pact which comply with the procedural requirements of this act are hereby validated."

Mr. Hammerbacker, Conrad Mayor, supported SB 189.

HOUSE OF REPRESENTATIVES

NATURAL RESOURCES COMMITTEE

ROLL CALL DATE 3-19-91

NAME	PRESENT	ABSENT	EXCUSED
REP. MARK O'KEEFE, VICE-CHAIRMAN	✓		
REP. BOB GILBERT	✓		
REP. BEN COHEN	✓		
REP. ORVAL ELLISON	✓		
REP. BOB REAM	✓		
REP. TOM NELSON	✓		
REP. VIVIAN BROOKE	✓		
REP. BEVERLY BARNHART	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. DAVID HOFFMAN	✓		
REP. DICK KNOX	✓		
REP. BRUCE MEASURE	✓		
REP. JIM SOUTHWORTH	✓		
REP. HOWARD TOOLE	✓		
REP. DAVE WANZENRIED	✓		
REP. BOB RANEY, CHAIRMAN	✓		

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business. It means you may have to raise rates or refinance.

REP. COHEN asked if counties, as a result of tax deficiencies, could levy taxes not to exceed two mills. **REP. GILBERT** said yes, that would be one method. **REP. COHEN** asked if that would mean a tax on everyone living within the district or only on people being served by the joint district. **Mr. Huntington** said it would be everyone who owns property in the district.

REP. WANZENRIED asked if there would be a vote in single or multi-county districts. **Mr. Huntington** said there can be a vote in a multi-county district if people want to back the bonds with more than two mills.

REP. COHEN asked if it would be correct to say a multi-county unregulated monopoly would be created, given that property owners who do not utilize the service have to pay for it. **Mr. Huntington** said no.

REP. WANZENRIED asked how the debt is divided between the two jurisdictions if there were a deficiency in multi-county districts. **Mr. Huntington** said all counties participate in the creation of the district and, as part of the initial resolution, agree whether to provide a two mill limited tax pledge or not. If there is a two mill limited tax pledge, the counties would decide how to divide it.

REP. COHEN asked what kind of annual budget there would be. **Mr. Huntington** said there would be a full range of budgets. **REP. COHEN** asked how often boards meet and if there were any requirement for board members to have expertise or experience in pertinent areas. **Mr. Huntington** said the whole board meets at least once per year. The executive committee meets more often. Current law requires the board to include sanitarians from the county, a representative of county government and a representative from each municipality within the district.

Closing by Sponsor:

REP. GILBERT said the bill tries to address needs created by subtitle regulation and resulting landfill closures. Privatization may be needed and the amendments try to allow that. He does not oppose privatization, but a partnership between the two is needed.

HEARING ON SB 400

Presentation and Opening Statement by Sponsor:

SEN. FRED VAN VALKENBURG, SD 30 - Missoula, said SB 400 was introduced at the request of a major landowner in western Montana to deal with the issue of illegal and improper disposal of solid waste on private land. Entities like Champion International and other large landowners find people dumping waste into gullies,

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Natural Resources COMMITTEE BILL NO. SB 189

DATE 3/19 SPONSOR(S) Sen Beck - Revise local gov't solid waste management laws

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Tom Hammerbacker	City of Conrad	✓	
Sheldon S. Frisbee	City of Port Benton	✓	
Gordon Morris	MACo	✓	
Pete Frazier	City-County Health Dept of Falls	✓	
R. Walter Connell 125 W. Mendenhall Bozeman MT 59715	Three Rivers Disposal		✓
Frank C. Crowley	Mt. Sol. Waste Cont. Assn		✓
Chris Kaufman	MEIC	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN BOB RANEY**, on April 2, 1991, at 12 p.m.

ROLL CALL

Members Present:

Bob Raney, Chairman (D)
Mark O'Keefe, Vice-Chairman (D)
Beverly Barnhart (D)
Vivian Brooke (D)
Ben Cohen (D)
Ed Dolezal (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
David Hoffman (R)
Dick Knox (R)
Bruce Measure (D)
Tom Nelson (R)
Bob Ream (D)
Jim Southworth (D)
Howard Toole (D)
Dave Wanzenried (D)

Staff Present: Gail Kuntz, Environmental Quality Council
Paul Sihler, Environmental Quality Council
Lisa Fairman, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

EXECUTIVE ACTION ON SB 189

Motion: **REP. FAGG MOVED SB 189 BE CONCURRED IN.**

Motion: **REP. COHEN** moved to amend SB 189.

Discussion: **REP. COHEN** said disposal districts can go deeply in debt and issue bonds for financing themselves without a vote of the people. People expect school districts and local governments to go to a vote of the people for a bond. Disposal districts are given powers not given to any other local government. He reviewed amendment No. 3 to require a vote of the people for bonding. **EXHIBIT 1**

Vote: Motion to adopt amendment No. 3 carried unanimously. **EXHIBIT 1**

Discussion: **REP. O'KEEFE** said amendments No. 1 and No. 2, **EXHIBIT 1**, were made in committee the last time the bill was discussed. In both cases, problems were caused by putting the amendments on.

Paul Sihler, Environmental Quality Council, explained amendment No. 1. He said the committee was concerned that 15 days was too short a time period and amended the bill to 60 days. However, 60 days also creates a problem and doesn't address the original conflict. There are multiple notice period requirements. To make them consistent, the time period has to be 21 days or less, or the reference to general notice law on notice and publication requirements must be omitted. The 21-day time period is in the statute for general government operations.

Motion: **REP. O'KEEFE** moved to amend SB 189 to make the protest period 21 days under 7-13-209. **EXHIBIT 1, Option (a)**

Discussion: **REP. COHEN** asked why the protest period couldn't be longer than 21 days. **Gene Huntington, consultant to EQC,** said it was changed in the original bill because the law dealing with refuse disposal districts says people must have 30 days to protest. A general law in local government says how notice is given and how to handle protests. The bill also refers to the law that says notice cannot be given more than 21 days before the action. If there were 30 days to protest, but notice couldn't be given more than 21 days beforehand, 21 days would be the maximum if reference to the general law on notice is left in. The reference to general law could be eliminated to allow a longer period.

REP. COHEN asked if two notices could be given. He said the first notice could provide a longer notification period and the second notice could be within 21 days. **Mr. Huntington** said the two notice requirement is part of 7-12-121. It states that two notices should be provided no more than 21 days before the act, which shall be in two consecutive weeks no less than three days before the act.

REP. O'KEEFE said the amendment to make the protest 21 days is still proposed.

Vote: Motion to amend SB 189 to make the protest period 21 days carried 15-3, with **REPS. O'KEEFE, WANZENRIED** and **COHEN** voting no.

Discussion: **REP. O'KEEFE** asked **Mr. Sihler** to review amendment No. 2, **EXHIBIT 1.** He said "sufficient" has a specific meaning in general government law. It means a protest of 50 percent of the property owners. He asked if the committee wanted "sufficient" instead of "factual or legal basis." General government statutes provide guidance on what "sufficient" means, but there isn't guidance on the meaning of "factual or legal basis."

REP. COHEN said the problem with "sufficient," or creating a protest by 50 percent of the property owners, is that there are thousands of property owners, some out of state. It becomes impossible to do. Current wording in the bill should be retained.

Motion: REP. FAGG MOVED THAT SB 189 BE CONCURRED IN AS AMENDED. Motion carried 17-1, with **REP. COHEN** voting no.

EXECUTIVE ACTION ON SB 253

Motion/Vote: REP. FAGG MOVED SB 253 BE CONCURRED IN. Motion carried 17-1, with **REP. GILBERT** voting no.

EXECUTIVE ACTION ON SB 303

Motion: REP. GILBERT MOVED SB 303 BE CONCURRED IN.

Discussion: Gail Kuntz, Environmental Quality Council, said **SEN. CECIL WEEDING's** amendments address concerns of water users and agricultural groups. The amendments further define "adversely affected." **EXHIBIT 2**

CHAIRMAN RANEY said that under present law in Montana, water quality is not considered when permits are issued. It's time to address water quality. SB 303 does that.

REP. GILBERT said it would be difficult to document the 10 percent increase. He said the amendments are unnecessary.

Vote: SB 303 BE CONCURRED IN. Motion carried 14-4, with **REPS. FOSTER, KNOX, ELLISON** and **HOFFMAN** voting no.

EXECUTIVE ACTION ON SB 377

Motion/Vote: REP. BROOKE MOVED SB 377 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON SB 386

Motion: REP. KNOX MOVED SB 386 BE CONCURRED IN.

Discussion: CHAIRMAN RANEY asked **Mr. Sihler** why there were numerous references to SB 325 when SB 386 was presented. **Mr. Sihler** said the two bills relate to water leasing. One relates to irrigators, the other to non-irrigators. SB 386 is the irrigation bill.

CHAIRMAN RANEY asked if SB 386 makes it easier for an irrigator to change a water right, and if it would be much easier under this bill than any of the other bills that changed water rights for instream flow and recharge. **Mr. Sihler** said the bill allows a temporary change in appropriation right. If water is leased to someone else, the water right holder does not lose the appropriation.

HOUSE OF REPRESENTATIVES

NATURAL RESOURCES COMMITTEE

ROLL CALL DATE 4-2-91

NAME	PRESENT	ABSENT	EXCUSED
REP. MARK O'KEEFE, VICE-CHAIRMAN	✓		
REP. BOB GILBERT	✓		
REP. BEN COHEN	✓		
REP. ORVAL ELLISON	✓		
REP. BOB REAM	✓		
REP. TOM NELSON	✓		
REP. VIVIAN BROOKE	✓		
REP. BEVERLY BARNHART	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. DAVID HOFFMAN	✓		
REP. DICK KNOX	✓		
REP. BRUCE MEASURE	✓		
REP. JIM SOUTHWORTH	✓		
REP. HOWARD TOOLE	✓		
REP. DAVE WANZENRIED	✓		
REP. BOB RANEY, CHAIRMAN	✓		

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10:45

4-3-91
JDB

HOUSE STANDING COMMITTEE REPORT

April 2, 1991

Mr. Speaker: We, the committee on Natural Resources report that Senate Bill 189 (third reading copy -- blue) be concurred in as amended .

Signed: _____
Bob Raney, Chairman

Carried by: Rep. Gilbert

And, that such amendments read:

1. Title, line 10.
Following: "7-7-4402,"
Insert: "7-7-4426,"
Following: "7-13-215,"
Insert: "7-13-231,"

2. Title, line 11.
Following: "SECTIONS"
Insert: "7-13-211,"

3. Page 7, line 6.
page 8, line 4
Strike: "15"
Insert: "21"

4. Page 8, line 7.
Strike: "be insufficient"
Insert: "have no factual or legal basis"

5. Page 12.
Following: line 16
Insert: "(2) The commissioners may issue a revenue bond only if the sale of the bond has been approved in a general or special election by a majority of the registered voters in the jurisdictions to be directly served by the solid waste district."
Renumber: subsequent subsections

6. Page 16.
Following: line 13
Insert: "(2) A joint district may issue a revenue bond only if the sale of the bond has been approved in a general or special election by a majority of the registered voters in the jurisdictions to be directly served by the joint district."
Renumber: subsequent subsections

7. Page 16, line 15.
Strike: "without an election and"

8. Page 19.
Following: line 4
Insert:
"Section 29. Section 7-7-4426, MCA, is amended to read:
"7-7-4426. Authorization for undertaking and issuance of bonds. (1) The acquisition, purchase, construction, reconstruction, improvement, betterment, or extension of any undertaking may be authorized under this part.
(2) Bonds may be authorized to be issued under this part by resolution or resolutions of the governing body of the municipality:
(a) without an election, except joint solid waste district and county solid waste bonds; or
(b) when authorized by a majority of the qualified electors voting upon such question at a special election, should the governing body in its sole discretion choose to submit the question to the electorate."

Section 30. Section 7-13-231, MCA, is amended to read:
"7-13-231. Authorization for charges for services. (1) To defray the cost of maintenance and operation of said refuse disposal district, the board shall establish a fee for service, with approval of the county commissioners, provided a public hearing has been held if written protest has been made ~~as provided in 7-13-211~~. An increase in fees may not be approved and implemented unless notice of such increase is given as provided in 7-13-208(1) and (2) and opportunity for protest is allowed as provided in 7-13-209 ~~and 7-13-211~~.
(2) This fee shall be assessed to all units in the district that are receiving a service, for the purpose of maintenance and operation of said district.""
Renumber: subsequent sections

9. Page 19, line 5.
Following: "Sections"
Insert: "7-13-211"

10. Page 19.
Following: line 21
Insert:
"NEW SECTION. Section 34. Coordination instruction. If House Bill No. 296 is passed and approved and if it includes a

section that amends 7-5-2306, then [section 1 of this act], amending 7-5-2306, is void."
Renumber: subsequent sections

EXHIBIT 1
DATE 4-2-91
HB SB 189

Senate Bill 189

Comments Related to Proposed Amendments

1. Section 8- Proposed amendment to increase protest period to 60 days - The purpose of this section, as drafted, was to eliminate a conflict in the current law, not to change the protest period. Changing the protest period to 60 days does not eliminate the conflict.

The conflict in current law is caused by the current refuse disposal district law providing that any property owner can protest within 30 days of the notice in 7-13-209, and the requirement that the notice provision follow the general law on local government notice 7-1-2121. **The general law requires that the notice be published no more than 21 days prior to the action and no less than 3 days before the action.** Providing 60 days notice takes you even further from the 21 day maximum under 7-1-2121. If the reference to the general law on notice is left in 7-13-208, the period between notice and action must be 21 days or less.

Options:

a. Make the protest period 21 days under 7-13-209.

b. Eliminate the reference to the general law on notice and publication (7-1-2121).

2. Section 9, page 8, line 7 - The proposed amendment would strike insufficient and replace with the words "have no factual or legal basis". The amendment would change the determination on whether the district can be created from the number of affected parties protesting to the legal and factual reasons for the protest. The word "sufficient" has specific meaning; protest of 50% of the property owners. Sufficient protest is defined in 7-13-211. If the basis of determining the adequacy of protest is to be changed, 7-13-211 should be revised to provide direction in determining "factual or legal basis."

3. Proposed amendments to Sections 14 and 24, that would require a referendum to issue revenue bonds. Revenue bonds do not generally require voter approval because they are backed only by a pledge of the revenue to be generated by the utility or enterprise and a limited tax pledge. Voter approval is required for general obligation bonds that pledge the full faith and taxing power of the entity issuing the bonds.

This requirement would make the issuance of bonds more time consuming because an election would be required. An election procedure may need to be provided for in the bill. If a referendum is required Section 14, may not be necessary as Counties already have authority to issue general obligation bonds.